United Nations A/HRC/35/23

General Assembly

Distr.: General
6 June 2017

Original: English

Human Rights Council
Thirty-fifth session
6-23 June 2017
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on a gender-sensitive approach to arbitrary killings*

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the first report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Agnes Callamard, submitted pursuant to Council resolution 26/12. In the report, the Special Rapporteur considers key elements of a gender-sensitive perspective to the mandate, in the interests of strengthening an inclusive application of critical norms and standards related to the right to life. These elements include consideration of the impact of gender identity and expression, intersecting with other identities, on the risks factors to killings or death, the degree of predictability of harm and States' implementation of its due diligence obligations. Applying gender lenses to the notion of arbitrariness, the Special Rapporteur highlights that gender-based killings — when committed by non-State actors — may constitute arbitrary killings. It also shows that violations of the right to life stem not only from an intentional act of deprivation of life by the State or a non-State actor, but also from the deprivation of basic conditions that guarantee life, such as access to essential health care. Thus, a gender-sensitive approach to the mandate reveals that arbitrary deprivation of life may result from systemic discrimination that must be remedied for all people to enjoy equal rights to life.

* The present report was submitted after the deadline in order to reflect the most recent developments.

GE.17-09011(E)

Please recycle

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on a gender-sensitive approach to arbitrary killings

Contents

		Page
I.	Introduction	3
II.	Activities of the Special Rapporteur	3
	A. Communications	3
	B. Press releases	3
	C. Meetings and other activities	3
III.	Gender-sensitive approach to extrajudicial, summary or arbitrary killings	4
	A. Introduction	4
	B. Definitions and scope of the report	5
	C. Right to life, arbitrary killings and deprivation of life	6
	D. Gender-sensitive approach to States' obligation to respect the right to life	7
	E. Gender-sensitive approach to States' obligation to protect the right to life	10
	F. Responsibility to fulfil: violations of the right to life, and arbitrary killings, through the deprivation of socioeconomic rights	14
IV.	Conclusions	17
V.	Recommendations	18
	A. Recommendations addressed to States	18
	B. Recommendations addressed to the United Nations and civil society	21

I. Introduction

1. The present report is submitted to the Human Rights Council in accordance with resolution 26/12. It is the first to the Council by Agnes Callamard, Special Rapporteur on extrajudicial, summary or arbitrary executions, since she took up her functions on 1 August 2016. She succeeded Christof Heyns, who completed his six-year term as Special Rapporteur on 31 July 2016.

2. In preparation of the present report, on 18 November 2016, the Special Rapporteur issued a call for submissions to States, academia and civil society on the topic of "a gender-sensitive approach to extrajudicial, summary or arbitrary killings". That was followed on 30 March 2017 by the convening in Geneva of an expert meeting on the same topic. She wishes to express her sincere appreciation to all those who submitted responses and participated in the event.[1]

II. Activities of the Special Rapporteur

3. The present report covers activities undertaken by the Special Rapporteur since the submission of the previous report to the Human Rights Council (A/HRC/32/39) as far as they have not been included in the report to the General Assembly at its seventy-first session (A/71/372).

A. Communications

4. Observations on the communications sent by the Special Rapporteur between 1 March 2016 and 28 February 2017 and replies received between 1 May 2016 and 30 April 2017 are contained in document A/HRC/35/23/Add.2.

B. Press releases

5. During the reporting period, the former and current Special Rapporteur issued, alone or jointly, over 30 press statements, in which they raised thematic and country specific issues, including: the imposition of the death penalty, including on juvenile offenders; unlawful killings in relation to the war on drugs; death threats against and unlawful killings of human rights defenders; violations of the right to life of persons with disabilities; excessive use of force by security forces; the protection of civilians in conflict situations; and the need for prompt, thorough and impartial investigations into all cases of suspected unlawful killings.[2]

C. Meetings and other activities

6. All activities conducted by the Special Rapporteur between 1 April and 31 July 2016 are included in the above-mentioned report to the General Assembly.

7. Between 1 August 2016 and 28 February 2017, the Special Rapporteur participated in several meetings and events, including: a meeting convened in Seoul by the Working Group on Enforced or Involuntary Disappearances on enforced disappearances in the context of migration; a meeting organized by the University of Essex, United Kingdom of Great Britain and Northern Ireland, on investigating human rights violations in armed conflicts; and a regional consultation on drug policy in South-East Asia, convened in Bangkok by the International Drug Policy Consortium.

[1] Particular thanks goes to the Geneva Academy for co-organizing the expert meeting.

[2] For more information, see www.ohchr.org/en/NewsEvents/Pages/NewsSearch.aspx?MID=SR_Summ_Executions.

8. The Special Rapporteur was the keynote speaker at an event held in New York on the death penalty and terrorism, organized by the organizations Parliamentarians for Global Action and World Coalition against the Death Penalty. In addition, she participated in side events organized via video link in the margins of the thirty-fourth session of the Human Rights Council and the Fifth Review Conference of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (Convention on Certain Conventional Weapons), held in Geneva.

III. Gender-sensitive approach to extrajudicial, summary or arbitrary killings

A. Introduction

9. The mandate on extrajudicial, summary or arbitrary killings has evolved over the years through various resolutions of the General Assembly and the Human Rights Commission and Council, and in response to violations of the right to life that member States have determined required a response.[3]

10. No international treaty explicitly defines extrajudicial, summary or arbitrary executions. However, such violations of the right to life have been commonly characterized as falling within the "public" domain, i.e., the domain of the State and its institutions, and understood to encompass killings involving State officials or private actors connected to the State, and to include armed conflict situations.[4]

11. While many steps have been taken over the past 20 years to broaden the reach and relevance of international human rights law, including by special procedure mandate holders, historically common characterizations have worked to exclude gender-related killings, which take place mainly in the so-called "private" sphere. When, in its application, the human rights framework fails to regard equally all loss of life, the consequences may be — however unintentionally — the perception that some arbitrary loss of life is of a lesser degree of gravity than other instances of arbitrary death.

12. In its resolution 71/198, adopted in December 2016, on extrajudicial, summary or arbitrary executions, the General Assembly sought to offer a more inclusive perspective. It acknowledged the importance of gender equality in the 2030 Agenda for Sustainable Development and encouraged the systematic mainstreaming of a gender perspective. The Assembly recognized that women and girls are disproportionately affected by conflict and called upon States to investigate all killings, including killings of persons because of their sexual orientation or gender identity.

13. This suggests that, rather than focusing on whether the perpetrator is a State or a non-State actor, "what is decisive is whether a violation of the rights recognized by the Convention has occurred with the support or the acquiescence of the government, or whether the State has allowed the act to take place without taking measures to prevent it or to punish those responsible".[5]

14. A gender-sensitive perspective seeks to bring gender-based executions squarely within the mandate, including by revealing systemic discrimination that must be remedied for all people to enjoy equal rights. Acknowledging that gender-based killings may

[3] See E/CN.4/2005/7, paras. 5-11 and 45.

[4] For more information, see International Commission of Jurists, *Enforced Disappearances and Extrajudicial Executions: Investigation and Sanction, A Practitioners Guide* (Geneva, 2015), p. 57. Available from www.icj.org/wp-content/uploads/2015/12/Universal-Enforced-Disappearance-and-Extrajudicial-Execution-PGNo9-Publications-Practitioners-guide-series-2015-ENG.pdf.

[5] See *Velasquez Rodriguez v. Honduras* (Judgment), Inter-American Court of Human Rights, 29 July 1988, Series C No. 4, para. 173.

constitute arbitrary killings, even in certain circumstances when committed by non-State actors, reinforces rights-based claims to redress them.[6]

15. The purpose thus of the present report is to contribute to a comprehensive application of the mandate of the Special Rapporteur that is sensitive to and revealing of the ways in which gender interacts with violations of the right to life. The Special Rapporteur fully appreciates the many steps already taken in this regard, including through the mandate. Her effort here is to elaborate further on those, in the interests of the fairest and most inclusive application of these critical standards.

B. Definitions and scope of the report

16. In the present report, gender is understood to refer to the social attributes and opportunities associated with being male and female,[7] an evolving social and ideological construct that justifies inequality and a way of categorizing, ordering and symbolizing power relations.

17. Gender is not synonymous with or equivalent to sex. Instead, gender helps us to question that which we otherwise take for granted, including the category of sex.

18. Medical science establishes, for example, that there are sex characteristics, which, either at birth or in developmental stages, do not fit the medical or societal standards of binary biological sex with regards to sexual and reproductive anatomy. Some countries, furthermore, have long recognized a third sex (e.g. Bangladesh, India and Pakistan).

19. In its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights, the Committee on Economic, Social and Cultural Rights observed that gender identity is recognized as among the prohibited grounds of discrimination[8] and can be defined as each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms.[9]

20. As emphasized by a range of experts, gender never stands alone as a sole factor structuring power within a society.[10] The Committee on the Elimination of Discrimination against Women, in its general recommendation No. 28 (2010) on the core obligations of States parties under article 2 of the Convention, stated that "the discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste and sexual orientation and gender identity. States parties must legally recognize such intersecting forms of discrimination and their compounded negative impact on the women concerned and prohibit them".[11]

21. The notion of intersectionality seeks to capture this interaction between various forms and sources of systems of power and discrimination. As noted in the report of the Expert Group Meeting on gender and racial discrimination, held in Zagreb in 2000,[12] "it

---

[6] Even when a gender-related killing does not meet that threshold of arbitrary killing, it still triggers the responsibility of the State under international human rights law, as highlighted in the present report.

[7] See www.un.org/womenwatch/osagi/conceptsandefinitions.htm.

[8] See E/C.12/GC/20, para. 32.

[9] See "The Yogyakarta Principles: Principles on the application of international human rights law in relation to sexual orientation and gender identity" (March 2007), p. 8. Available from www.glen.ie/attachments/The_Yogyakarta_Principles.pdf.

[10] See Kimberlé Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics and Violence Against Women", *Stanford Law Review*, vol. 43, No. 6 (July 1991), pp. 1241-1299; and Carol Cohn, *Women and Wars: Contested Histories, Uncertain Futures* (Cambridge, Polity Press, 2013).

[11] See CEDAW/C/GC/28, para. 18.

[12] Available from http://www.un.org/womenwatch/daw/csw/genrac/report.htm.

addresses the way that specific acts and policies create burdens that flow along these intersecting axes contributing effectively to create a dynamic of disempowerment".[13]

22. For the purposes of the present report, gender is understood to produce distinct vulnerabilities and risks linked to the way societies organize male and female roles and exclude those who transgress such roles. Intersecting with other identities — such as race, ethnicity, disability and age, which also organize societies — gender heightens, or reduces, risks and vulnerabilities to human rights violations in general, and killings in particular.

23. While a gender-sensitive approach may be adopted to better understand violations committed against men and boys, in the present report, the Special Rapporteur focuses on gender-based killings of women and girls, and killings committed on the basis of gender identity and gender expression,[14] such as against lesbian, gay, bisexual, transgender, questioning and intersex persons.

C. Right to life, arbitrary killings and deprivation of life

24. Article 6 of the International Covenant on Civil and Political Rights recognizes the inherent right of every person to life and not to be arbitrarily deprived of life.

25. In accordance with articles 2 of the Universal Declaration of Human Rights and 26 of the Covenant, everyone is entitled to the protection of the right to life without distinction or discrimination of any kind, and all persons shall be guaranteed equal and effective access to remedies for the violation of that right.

26. The right not to be arbitrarily deprived of one's life is recognized as part of customary international law and the general principles of law, and is also recognized as a *jus cogens* norm, universally binding at all times.

27. There is, to date, no standardized interpretation of the meaning of "arbitrary",[15] although at least six characteristics may be extrapolated from various legal sources.

28. First, arbitrariness may have both a procedural and a substantive component, as reflected in the case law related to the use of force and the death penalty,[16] for instance.

29. Second, while arbitrariness may not only be equated with "against the law", "a deprivation of life will be deemed arbitrary if it is impermissible under international law, or under more protective domestic law provisions".[17]

30. Third, arbitrariness may be inferred from laws and practices, which violate the principle of non-discrimination. This was made particularly clear by the African Commission on Human and Peoples' Rights in paragraph 12 of its general comment No. 3 on the right to life, in which the Commission states that "any deprivation of life resulting from a violation of the procedural or substantive safeguards in the African Charter,

---

[13] See also Office of the United Nations High Commissioner for Human Rights and United Nations Entity for Gender Equality and the Empowerment of Women, *Latin American Model Protocol for the investigation of gender-related killings of women (femicide/feminicide)*, pp. 43-45. Available from http://www.un.org/en/women/endviolence/pdf/LatinAmericanProtocolForInvestigationOfFemicide.pdf.

[14] In its "Policy Paper on Sexual and Gender-based Crimes" (2014), the Office of the Prosecutor of the International Criminal Court defines gender-based crimes as "those committed against persons, whether male or female, because of their sex and/or socially constructed gender roles. Gender-based crimes are not always manifested as a form of sexual violence. They may include non-sexual attacks on women and girls, and men and boys, because of their gender". See www.icc-cpi.int/iccdocs/otp/otp-Policy-Paper-on-Sexual-and-Gender-Based-Crimes--June-2014.pdf.

[15] See forthcoming Human Rights Committee General Comment on the Right to Life.

[16] See A/HRC/4/20, para. 53; and A/67/275, para. 35.

[17] See African Commission on Human and Peoples' Rights, general comment No. 3 on the African Charter on Human and Peoples' Rights: The Right to Life (Article 4). Available from www.achpr.org/files/instruments/general-comments-right-to-life/general_comment_no_3_english.pdf.

including on the basis of discriminatory grounds or practices, is arbitrary and as a result unlawful".

31. For instance, the death penalty must not be imposed in a discriminatory manner.[18] Data about the disproportionate presence on death row of persons of a certain race or ethnic group may suggest systemic biases.

32. The element of non-discrimination applies both procedurally and substantively. Holders of the mandate on extrajudicial, summary or arbitrary executions have long argued that the imposition of the death penalty amounts to an arbitrary killing in cases where the courts have ignored essential facts of a capital defendant's case. This should logically include a long history of domestic violence, including because of larger social patterns of gender inequality.[19] Women facing capital prosecution arising out of domestic abuse suffer from gender-based oppression on multiple levels. For instance, it is exceedingly rare for domestic abuse to be treated as a mitigating factor during capital sentencing proceedings. Even in those countries with discretionary capital sentencing, courts often ignore or discount the significance of gender-based violence.

33. Fourth, arbitrariness has been interpreted to include elements of inappropriateness, injustice and lack of predictability[20] and due process of law,[21] as well as elements of reasonableness, necessity and proportionality.[22]

34. Fifth, "deliberate intent" on the part of the State is not required for a killing or a deprivation of life to be deemed 'arbitrary'. Quite the opposite: killings in circumstances of unnecessary or disproportionate excessive use of force by the police are likely to be arbitrary, even though the police may not have killed intentionally.

35. Sixth, the safeguards against arbitrary deprivation of life apply to killings by non-State actors. The Human Rights Committee, in paragraph 3 of its general comment No. 6 (1982) on the right to life, noted that it considers article 6 of the International Covenant on Civil and Political Rights to include the obligation of States parties to "take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces". In the famous "Cotton Field" decision,[23] the Inter-American Court on Human Rights noted the existence of State responsibility for killings by private individuals, which are not adequately prevented, investigated or prosecuted by the authorities. It also underscored that these responsibilities are heightened when an observable pattern has been overlooked or ignored, such as is often the case with gender-based violence, femicide, or harmful practices.[24]

D. Gender-sensitive approach to States' obligation to respect the right to life

36. States must respect, protect and fulfil human rights. Under the obligation to respect, States must respect the right to life and not deprive any person of their life arbitrarily, including in detention or through excessive use of force, for instance.

---

[18] See A/70/304, sect. IV. A.

[19] Cornell University, Cornell Center on the Death Penalty Worldwide, Submission to the Special Rapporteur, January 2017.

[20] See communication No. 305/1988, *Van Alphen v. The Netherlands*, Views adopted on 23 July 1990, para. 5.8.

[21] Ibid. See also communications No. 1134/2002, *Gorji-Dinka v. Cameroon*, Views adopted on 17 March 2005, para. 5.1.

[22] See African Commission on Human and Peoples' Rights, general comment No. 3 (footnote 17 above).

[23] See Inter-American Court of Human Rights, *González et al. ("Cotton Field") v. Mexico* (Judgment), 16 November 2009.

[24] See also African Commission on Human and Peoples' Rights, general comment No. 3 (footnote 17 above), paras. 38 and 39.

37. When depriving an individual of their liberty, States are held to higher level of diligence in protecting that individual's rights. If an individual dies as a consequence of injuries sustained while in State custody, there is a presumption of State responsibility, including in situations where the prisoner has committed suicide.[25]

38. States have an obligation to protect the right to life of women when they exercise custody or control over women. A gender-sensitive approach to a State's obligation in this regard is set out by the General Assembly in its resolution 61/143, in which it calls on Governments to take positive measures to address structural causes of violence against women in institutions or in detention,[26] and in the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).

39. Respect for the right to life and prevention of arbitrary deprivation of life while in custody go beyond managing the power imbalance in the relationship between prisoners and police officers. It extends to managing a prisoner's gender-based vulnerability and associated risks vis-à-vis other prisoners and their conditions of incarceration more generally.

40. The extent of State obligations may be illustrated with the examples below.

Women facing the death penalty

41. Although precise figures on the imposition and implementation of the death penalty for women worldwide are difficult to obtain, a 2017 academic study suggests that women make up less than 5 per cent of the world's death row population and account for less than 5 per cent of the world's executions. At least 800 women are known to be currently on death row around the world.[27]

42. In many cases, women have been sentenced to death or subject to the death sentence for the crime of murder, often of close family members, but also for adultery,[28] same sex relationships and conduct and for drug-related offences, all of which do not meet the threshold of most serious crimes. Research on the death penalty applied to women has uncovered meaningful similarities among the women, across jurisdictions, including histories of long-term abuse and absence of effective assistance. Other common factors are economic dependence, fear of losing child custody, a culture of widespread tolerance of violence against women and the difficulties and stigma involved in obtaining a divorce.

43. Female migrant workers are particularly at risk. For instance, in the United Arab Emirates, death row statistics show that only 19 out of the approximately 200 people on death row are Emiratis, while 7 out of 8 women on death row are foreign domestic workers[29]. Migrant women facing the death penalty abroad are disproportionately, and thus arbitrarily, affected by the death penalty because of unfamiliarity with the laws and procedures, inadequate or low-quality legal representation, insufficient knowledge of the language and lack of a support network.[30] The implementation of the death penalty under these circumstances may be discriminatory and may constitute an arbitrary killing.

44. The Special Rapporteur has argued that the imposition of the death penalty against clear evidence of self-defence constitutes an arbitrary killing. This is particularly important for women charged with murder of their intimate partners, or others, when defending themselves.

---

[25] See A/HRC/14/24/Add.1, paras. 89-90.
[26] See General Assembly resolution 61/143, para. 8 (*f*).
[27] See footnote 16 above.
[28] "Adultery" and other sexual offences should not be considered as crimes, pursuant to international human rights jurisprudence.
[29] See footnote 16 above.
[30] See A/70/304, p. 15.

Death penalty for same-sex relationships

45. The Islamic Republic of Iran, Saudi Arabia, the Sudan and Yemen have implemented the death penalty for same-sex behaviour.[31] When carried out, these sentences amount to arbitrary killings, for violating several substantive requirements related to the use of the death penalty, including non-discrimination and its imposition for crimes that do not qualify as most serious. While no cases of executions for consensual same-sex conduct have been confirmed in recent years, the mere existence of such laws reinforces stigma and fuels discrimination and violence against anyone perceived to be lesbian, gay, bisexual, transgender, questioning and intersex. Several human rights bodies have concluded that such punishment violates the provisions of the International Covenant on Civil and Political Rights.[32]

Transgender individuals in custody

46. Transgender women may be at heightened risk of violence and abuse when placed in male prisons or jails. According to the United Nations Office on Drugs and Crime (UNODC), when accommodated according to their birth gender, especially when male-to-female transgender prisoners are placed in men's prisons, transgender prisoners are often subjected to extreme physical, sexual and emotional abuse at the hands of inmates and penitentiary or police officials.[33] In some cases, transgender women in need of life-saving medical treatment have died owing to discrimination in and denial of access to essential services.[34] Advocates have warned of the risk of "mis-gendering" in prisons as a serious form of violence. Killings of transgender persons in conditions of detention that fail to take into account the risks they face, where these and the seriousness of the harm could be well foreseen owing to their gender expression, are arbitrary.

Gender-based killings in armed conflict situations

47. Rape and sexual violence tend to dominate gender-sensitive reports on armed conflicts, reflecting their widespread use as a weapon of war. The Independent International Commission of Inquiry on the Syrian Arab Republic has detailed a litany of gender-based atrocity crimes committed by most parties to the conflict in the Syrian Arab Republic, including rape and sexual torture of women and men and those suspected of being homosexual. The rule of Islamic State in Iraq and the Levant is grounded on a systematic discrimination against persons on the basis of gender and gender expression, which has included torturing and killing those they deem not in conformity with their understanding of gender roles and enslaving and systematically raping women and girls belonging to the Yazidi community.[35]

48. Other gender-based acts of violence and killings deserve additional attention. For instance, the patterns of harm from the use of explosive weapons in populated areas are shaped by issues of gender and age,[36] while the use of armed drones — and potentially autonomous weapon systems in the future — reinforce stereotypes of violent masculinities.[37]

---

[31] C. Knight and K. Wilson, *Lesbian, Gay, Bisexual, and Trans People (LGBT) and the Criminal Justice System* (London, Palgrave Macmillan, 2016).

[32] See CCPR/C/MRT/CO/1, para. 8; E/C.12/IRN/CO/2, para. 7; A/HRC/30/18, para. 35.

[33] See www.unodc.org/pdf/criminal_justice/Handbook_on_Prisoners_with_Special_Needs.pdf.

[34] See http://infocielo.com/nota/78127/una_nueva_muerte_de_una_mujer_trans_en_la_carcel_debido_a_condiciones_indignas/.

[35] See A/HRC/32/CRP.2, available from www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/Documentation.aspx.

[36] See M.H.-R. Hicks et al, "The Weapons That Kill Civilians — Deaths of Children and Noncombatants in Iraq, 2003-2008", *The New England Journal of Medicine*, 16 April 2009; and R. Moyes, "Impact of Explosive Weapons by Gender and Age – Iraq 2003-2011", research paper, Action on Armed Violence (2012).

[37] See R. Acheson, R. Moyes and T. Nash, "Sex and Drone Strikes: Gender and Identity in Targeting and Casualty Analysis", Reaching Critical Will and Article 36 (2014).

Secondary victims

49. Women are particularly affected by the extrajudicial killing of their partners and other family members. For instance, the Government of the Philippines war on drugs has resulted in a large number of killings, including reported extrajudicial killings and killings by "unknown assailants". As the majority of the victims are men, their female partners, by virtue too of their gender-based roles, are left to confront the associated stigma, fear, insecurity and economic deprivation, in addition to the burdens of identifying and burying their dead loved ones and seeking justice.

E. Gender-sensitive approach to States' obligation to protect the right to life

50. Under their obligation to protect, States must act with due diligence to protect against actions by non-State actors that may infringe on other persons' human rights. State responsibilities derive from failures to act, with "act" encompassing the institutions and the mechanisms to prevent and investigate violations, punish those responsible and provide compensation and reparation. States must thus exercise due diligence to prevent arbitrary deprivations of life, including where there is a real and immediate risk to the life of an identified individual or individuals from the criminal acts of a third party.[38]

Femicide and killings on the basis of gender expression

51. Femicide, which constitutes perhaps the most prevalent form of violence against women and girls, is perpetrated in countries across the globe.

52. According to UNODC and academic research,[39] although homicide at the hands of an intimate partner affects people in all regions, it disproportionately affects women to the extent that, at the global level, almost half of female homicide victims are killed by their family members or intimate partners, whereas the equivalent figure for men is just over 5 per cent.[40] Such homicides are often the ultimate outcome of a failed societal response to intimate partner violence, including health and criminal justice services.[41]

53. Analysis by the Femicide Census in the United Kingdom has shown many significant similarities across settings, weapons used and relationship of the perpetrator to the victim. Women were shown to be at significant risk of being killed when separating from intimate partners or shortly thereafter.[42]

54. An intersectional approach to femicide reveals that the homicide rate among indigenous or aboriginal women and girls is much higher than national averages. For instance, in Canada, this is at least six times higher than that for all Canadian women.[43] In an extensive report, the Committee on the Elimination of Discrimination against Women highlighted the failure of the federal and provincial authorities in Canada to address underlying factors that put women and girls at risk, including discrimination, social and economic marginalization and inadequate access to safe, affordable housing.[44]

---

[38] See CCPR/C/21/Rev.1/Add.13, para. 8.

[39] See Heidi Stöckl et al, "The global prevalence of intimate partner homicide: a systematic Review", *The Lancet*, vol. 382, pp. 859-865 (7 September 2013).

[40] See UNODC, *Global study on homicide* (Vienna, 2013). Available from www.unodc.org/documents/data-and-analysis/statistics/GSH2013/2014_GLOBAL_HOMICIDE_BOOK_web.pdf.

[41] "Global prevalence of intimate partner homicide" (see footnote 38 above), p. 864

[42] See Femicide census, "Redefining an isolated incident" (2016). Available from https://1q7dqy2unor827bqjls0c4rn-wpengine.netdna-ssl.com/wp-content/uploads/2017/01/The-Femicide-Census-Jan-2017.pdf.

[43] See Z. Miladinovic and L. Mulligan, "Homicide in Canada, 2014" (Statistics Canada, 25 November 2015).

[44] See CEDAW/C/OP.8/CAN/1 and Inter-American Commission on Human Rights, "The Right to Truth in the Americas" (December 2014).

55. Women with disabilities worldwide experience domestic violence, including physical, sexual, emotional, psychological and financial abuse, at twice the rate of other women.[45] Girls with disabilities are also particularly at risk of infanticide "because their families are unwilling or lack the support to raise a girl with an impairment".[46]

56. Where data on killings on the basis of sexual identity or gender expression exist, they indicate a very high incidence of violence resulting in death. For instance, in the United States of America, in 2013, the majority of the victims of hate-related violence and homicides (72 per cent) were transgender women, and transgender women of colour were at the highest risk of homicide in the nation.[47] The Inter-American Commission on Human Rights reported 594 hate-related killings of lesbian, gay, bisexual, transgender and intersex persons in its 25 member States between January 2013 and March 2014.[48]

Due diligence obligations

57. The standard of due diligence requires States to act to prevent, investigate, punish and provide compensation for human rights violations, whether committed by State or non-State actors.[49] This standard, which applies both to the negative and the positive obligations of the State, is found in numerous international instruments and has been particularly well developed and elaborated upon in the context of violence against women and gender-based killings.[50]

58. Below are a number of elements of due diligence that are particularly highlighted.

Failure to act

59. A State may incur international responsibility for failing to act with due diligence to prevent, investigate, sanction and offer reparations for gender-based violence, including acts of violence against women, a duty that may apply to actions committed by private actors in certain circumstances.[51]

Recognition of intersectionality

60. The international and regional systems have identified certain groups of women (for example, girl-children, women from ethnic, racial and minority groups and disabled women) as being at particular risk of violence owing to the multiple forms of discrimination they face.[52] This is also the case for lesbian, gay, bisexual, transgender, questioning and intersex persons. States must recognize this intersectionality and consider it in their policymaking.

---

[45] See A/67/227, p. 31.

[46] See Committee on the Rights of Persons with Disabilities, general comment No. 3 (2016) on women and girls with disabilities, para. 36, and A/HRC/20/5, para. 24.

[47] See www.hrc.org/resources/understanding-the-transgender-community.

[48] See Inter-American Commission on Human Rights "An Overview of Violence Against LGBTI Persons", available from www.oas.org/en/iachr/lgtbi/docs/Annex-Registry-Violence-LGBTI.pdf.

[49] See *Velasquez Rodriguez v. Honduras* (footnote 5 above).

[50] See Committee on the Elimination of Discrimination against Women, general recommendation No. 19 on violence against women; Declaration on the Elimination of Violence against Women, adopted by the General Assembly; and the Beijing Platform for Action.

[51] See Inter-American Court of Human Rights, Report No. 28/07, cases 12.496-12.498, *Claudia Ivette González and others* (Mexico), 9 March 2007; European Court of Human Rights, *Case of Opuz v. Turkey* (Judgment), application No. 33401/02; Committee on the Elimination of Discrimination against Women, communication No. 6/2005, *Fatma Yildirim v. Austria*, Views adopted on 6 August 2007; and article 5 of the Council of Europe Istanbul Convention.

[52] See *Jessica Lenahan (Gonzales) et al. v. United States*, merits report No. 80/11, case 12.626, para. 127. See also Human Rights Council resolution 14/12, tenth preambular paragraph; Inter-American Court of Human Rights, "Violence and Discrimination against Women in the Armed Conflict in Colombia", OEA/Ser/L/V/II.124/Doc.6 (18 October 2006), paras. 102-106; Inter-American Court of Human Rights, "Access to Justice for Women Victims of Violence in the Americas", OEA/Ser.L/V/II, Doc. 68 (20 January 2007), para. 272; and CEDAW/C/2004/I/WP.1/Rev.1 para. 12.

Specific test

61. The standard of due diligence, as applied to the responsibility of preventing arbitrary and unlawful gender-based killing by non-State actors, relies on an assessment of: (a) how much the State knew or should have known; (b) the risks or likelihood of harm; and (c) the seriousness of the harm.

62. For instance, the European Court of Human Rights established that

> For a positive obligation to arise, it must be established that the authorities knew of or ought to have known at the time of the existence of a real and immediate risk to the life of an identified individual from the criminal acts of a third party and that they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk.[53]

63. In conducting this assessment with regard to killing by non-State actors, including intimate partners, the Committee on the Elimination of Discrimination against Women has sought to determine whether the State authorities had already recognized a risk of harm to the victim and/or her family members, and the seriousness of the potential harm, but had failed to act diligently to protect them.

Obligation to prevent, including by addressing discrimination and stereotypes

64. Due diligence requirements also include a focus on prevention and on root causes. This involves measures to prevent and respond to the multiple intersectional discriminations that perpetuate gender-based killings.[54]

65. In its resolution S-21/2, adopted at the twenty-first special session, the General Assembly has affirmed the State obligation to take action not only to address violence against women and girls, but also to tackle root causes of that violence. In paragraph 48 of that resolution, it affirmed that:

> Governments should give priority to developing programmes and policies that foster norms and attitudes of zero tolerance for harmful and discriminatory attitudes, including ... discrimination and violence against the girl child and all forms of violence against women, including ... trafficking, sexual violence and exploitation. This entails developing an integrated approach that addresses the need for widespread social, cultural and economic change, in addition to legal reforms.

66. States must adopt the required measures to modify the social and cultural patterns of conduct of men and women and to eliminate prejudices, customary practices and other practices based on the idea of the inferiority or superiority of either of the sexes, and on stereotyped roles for men and women.[55]

67. The "duty to prevent" includes a State obligation to modify, transform and eliminate wrongful gender stereotyping in recognition of the fact that the perpetuation of harmful gender stereotypes constitutes one of the determining factors of discrimination and violence.[56] For instance, according to the Inter-American Court of Human Rights, the creation and use of stereotypes becomes one of the causes and consequences of gender-based violence against women.[57]

---

[53] See European Court of Human Rights, *Kontrová v. Slovakia* (Judgment), application No. 7510/04, para. 50.

[54] See, e.g., General Assembly resolution 48/104, articles 3 and 4; HRI/GEN/1/Rev.1 (1994), paras. 1, 11 and 23; and Inter-American Commission on Human Rights, Report No. 4/01, *María Eugenia Morales de Sierra* (Guatemala), 19 January 2001, para. 44.

[55] See *Jessica Lenahan (Gonzales) et al. v. United States* (footnote 51 above), para. 126.

[56] See *Latin American Model Protocol* (footnote 13 above), pp. 23-25. See also Committee on the Elimination of Discrimination against Women, general recommendation No. 19 (footnote 49 above).

[57] See, *González et al. ("Cotton Field") v. Mexico* (footnote 23 above).

Obligation to uphold non-discrimination

68. States are required to have the same level of commitment in relation to the prevention, investigation, punishment and provision of remedies for gender-based killings, as they do with regards to the other forms of violence. Institutions and mechanisms established for these purposes must be equally accessible to all.

Effective judicial remedies

69. States also have an obligation to guarantee access to adequate and effective judicial remedies for all victims and their family members when they suffer acts of violence.[58]

Other requirements

70. The entire State structure, including the State's legislative framework, public policies, law enforcement machinery and judicial system, must operate to adequately and effectively prevent and respond to gender-based killings by State or non-State actors. The Committee on the Elimination of Discrimination against Women has repeatedly insisted on the broad nature of the duty-bearers obligations, noting the obligation to investigate the existence of failures, negligence or omissions on the part of public authorities, which may have caused victims to be deprived of protection.[59]

71. The obligation of due diligence is more than the mere enactment of formal legal provisions and the State must act in good faith to effectively prevent violence against women.[60]

72. Finally, the obligation of due diligence places a high burden on the State, demanding firm legal protection and effective remedy.

Efforts versus outcomes

73. The notion of high burden warrants further elaboration as it may be seen as contradicting the fact that the obligations of due diligence are positive obligations, thus implying obligations of effort or means, rather than of results or ends.[61] In fact, these positive obligations impose a high burden on the State, including a burden of effectiveness, particularly so with respect to the protection of the right to life. This is supported by facts below.

74. Killings by State actors amount to a failure to implement both negative obligations and due diligence. The overlap between these two sets of State duties, for example, with regard to investigation, makes the distinction between results and means difficult to sustain in the context of the right to life.

75. The obligation of investigation into human rights violations is non-derogable and takes on a particularly crucial dimension when applied to the right to life. Indeed, international standards affirm that lack of investigation constitutes in and of itself a violation of the right to life, whether or not those who commit the killings are State agents. Investigations into gender-based killings, under the due diligence standard, demand a range of additional investigatory measures and inquiries into, for instance, the context or the motivation of the killers, similar to those found in the investigation of "hate crimes". If

[58] See, e.g., General Assembly resolution 63/155, paras. 11 and 14-16, "Access to Justice for Women Victims of Violence in the Americas" (footnote 51 above), paras. 23-58; Inter-American Commission on Human Rights, report No. 54/01, case 12.051, *Maria Da Penha Maia Fernandes* (Brazil), available from www.cidh.oas.org/annualrep/2001eng/chap.6c.htm, paras. 33-34.

[59] See communication No. 47/2012, *Gonzáles Carreño v. Spain*, decision adopted on 16 July 2014.

[60] See www.un.org/womenwatch/daw/egm/vaw-gp-2005/.

[61] See, for instance, International Court of Justice, *Case Concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (judgment of 26 February 2007), para. 430; and Menno Kamminga, "Due Diligence Mania", Maastricht Faculty of Law Working Paper No. 2011/07 (4 May 2011), available from http://ssrn.com/abstract=1831045.

women or girls belong to other groups traditionally targeted or discriminated against, the overlap of risk factors must also be considered in the investigation.[62]

76. The obligation of preventing, sanctioning and having access to remedies impose equally firm obligations on the State. For instance, in *Opuz v. Turkey*, the European Court of Human Rights determined that, when authorities *are aware* of instances of grave domestic violence, it falls upon them to undertake effective action of their own motion.[63] The Court's judgment implies that, in order to fulfil Convention obligations, European Governments must aggressively pursue criminal proceedings in cases of alleged domestic violence, and such proceedings must be effective. This might require particular vigilance in situations where victims are fearful of reporting abuse, a likely possibility in domestic violence scenarios.[64]

77. Such insistence on effectiveness is not just argued with regard to richer States. For instance, the Inter-American Commission on Human Rights stated, in *Gonzalez v. the United States of America*, that it is not the formal existence of such remedies that demonstrates due diligence, but rather that they *are available* and effective.[65] Therefore, when the State apparatus leaves human rights violations unpunished and the victim's full enjoyment of human rights is not promptly restored, the State fails to comply with its positive duties under international human rights law.[66]

78. In conclusion, the obligation to respect and protect the right to life is a non-derogable obligation of immediate effect. To the extent that women are the victims of unlawful death in the private sphere, there is an immediate obligation placed upon the States to protect, including through prevention, investigation, sanction and reparations. The fact that these obligations are "positive" does not imply weaker obligations. Efforts-based obligations imply demonstration of effectiveness (vis-à-vis the efforts of prevention, investigation, punishment and remedies), non-discrimination in the allocation of State efforts and firm legal protection.

F. Responsibility to fulfil: violations of the right to life, and arbitrary killings, through the deprivation of socioeconomic rights

79. A gender-based intersectional analysis calls for a greater conceptual and policy-based integration between the protection of the right to life and the realization of economic, social and cultural rights.

80. The deprivation of women's life as a result of the failure by the State to realize socioeconomic rights, has been progressively analysed as falling within the remit of article 6 of the International Covenant on Civil and Political Rights.[67] This overlap applies with particular force to rights related to the minimum survival requirements (rights to health, housing, water and food).[68]

---

[62] See A/71/398.

[63] See *Case of Opuz v. Turkey* (footnote 50 above).

[64] See www.womenslinkworldwide.org/files/jgo_article_caseOpuz-Turkey_en.pdf.

[65] See, Inter-American Commission on Human Rights, report No. 81/10, case 12.562, *Wayne Smith, Hugo Armendariz, et al.* (United States), 12 July 2010, para. 62; Inter-American Commission on Human Rights, report on admissibility No. 52/07, petition 1490-05, *Jessica Gonzales and Others* (United States), 24 July 2007, para. 42; "Access to Justice for Women Victims of Violence in the Americas" (footnote 51 above), para. 26; Inter-American Court of Human Rights, *Case of the "Street Children" (Villagrán-Morales et al.) v. Guatemala*. Judgment of 19 November 1999, series C, No. 63, para. 235.

[66] See Inter-American Commission on Human Rights, *The Situation of the Rights of Women in Ciudad Juarez, Mexico*, OEA/Ser. L/V/II.117. Doc. 44 (7 March 2003), para. 51.

[67] The Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, in her August 2016 annual report (A/71/310), lists a range of initiatives by treaty monitoring bodies adopting an inclusive understanding of the right to life in their jurisprudence.

[68] See Inga Winkler, *The Human Right to Water: Significance, Legal Status and Implications for Water*

81. In its general comment No. 6 (1982) on the right to life, the Human Rights Committee has noted that the "right to life has been too often narrowly interpreted. The expression 'inherent right to life' cannot properly be understood in a restrictive manner, and the protection of this right requires that States adopt positive measures". The Committee's position points to the interrelation and interdependence of human rights and to an understanding of the connections between the protection of the right to life and the realization of socioeconomic rights. The implication is that failure on the part of States to address, through positive measures, systemic violations of socioeconomic rights, such as malnutrition, homelessness or diseases, amount to a violation of the right to life.

82. In its landmark decision on "street children",[69] the Inter-American Court of Human Rights developed the concept of "*vida digna*" (the right to a dignified life), according to which "the fundamental right to life includes not only the right of every human being not to be deprived of his life arbitrarily, but also the right that he will not be prevented from having access to the conditions that guarantee a dignified existence".

83. The African Commission on Human and Peoples' Rights, in its general comment No. 3, notes that the notion of "dignified life":

> Requires a broad interpretation of States' responsibilities to protect life. Such actions extend to preventive steps to preserve and protect the natural environment and humanitarian responses to natural disasters, famines, outbreaks of infectious diseases, or other emergencies. The State also has a responsibility to address more chronic yet pervasive threats to life, for example with respect to preventable maternal mortality, by establishing functioning health systems.[70]

84. The right to a dignified life encompasses the realization of human rights, such as access to drinkable water, sanitary facilities, adequate food, health care[71] and medicine,[72] through measures that can reasonably be expected to prevent or avoid risks to the life of groups and individuals.[73] This right also extends to the fulfilment of human rights to secure a "full, free, safe, secure and healthy life", through the rights to work, housing, education and culture.[74]

85. In practice, the integration between violation of article 6 related to the right to life, and violations of economic, social and cultural rights has taken at least two approaches.

86. The first and possibly most common has been the reliance on the due diligence negligence test of "knew or should have known". In *Sawhoyamaxa*, the Inter-American Court of Human Rights found that the failure by the State to provide access to health care facilities and the deaths that ensued resulted in a violation of the right to life. To consider whether a violation of the right to life occurred, the Court developed a two-pronged test examining whether: (a) the authorities knew or should have known about the existence of a situation posing an immediate and certain risk to the life of an individual or of a group of individuals; and (b) the necessary measures were not adopted within the scope of their authority which could be reasonably expected to prevent or avoid such risk. Under this test, the Court reasoned that the freedom of movement limitations placed on the indigenous community under these circumstances, which inhibited their ability to both practice

---

Allocation (Hart Publishing, Oxford, 2012).

[69] See *Case of the "Street Children"* (footnote 64 above).

[70] See general comment No. 3 (footnote 17 above), para. 3.

[71] See *Case of the "Street Children"* (footnote 64 above), and Steven R. Keener and Javier Vasquez, "A Life worth Living: Enforcement of the Right to Health through the Right to Life in the Inter-American Court of Human Rights", *Columbia Human Rights Law Review*, vol. 40, iss. 2 (2009), pp. 595-624.

[72] See Inter-American Court of Human Rights, *Case of the Yakye Axa Indigenous Community v. Paraguay*, ser. C, No. 125, (17 June 2005) paras. 161-168. Available from www.corteidh.or.cr/docs/casos/articulos/seriec_125_ing.pdf.

[73] See Inter-American Court of Human Rights, *Case of the Sawhoyamaxa Indigenous Community v. Paraguay*, ser. C, No. 146 (29 March 2006), para. 160.

[74] See Committee on Economic, Social and Cultural Rights, Fact Sheet No.16 (Rev.1) (July 1991), available from www.ohchr.org/Documents/Publications/FactSheet16rev.1en.pdf.

traditional medicine and to access State-sponsored medical services, were to be attributed to the State as a violation of the right to life.[75]

87. The second approach is through a focus on discrimination, the prohibition of which is regarded as having immediate effect: State parties must abolish laws, policies and practices that affect the equal enjoyment of economic, social and cultural rights and take action to prevent discrimination in public life. In 2011, the Committee on the Elimination of Discrimination against Women issued a landmark decision in *da Silva Pimentel v. Brazil*, in which it recognized that States have an immediate and enforceable human rights obligation to address and reduce maternal mortality. It stressed that limited access to quality maternal health-care services fails to address the specific needs of women and thus constitutes discrimination. The Committee further established that the right to life is violated whenever women die as a result of being denied access to quality health care services because "the lack of appropriate maternal health services has a differential impact on the right to life of women".[76] In that particular case, the Committee acknowledged that, in addition to gender-based discrimination, discrimination on the basis of race and income also affected the lack of access to quality maternal health care services,[77] resulting in a violation of the right to life.

88. Violations of the right to life stem thus not only from an intentional act of deprivation of life (murder) by the State or a non-State actor, but also from State's negligence in providing basic conditions and services that guarantee life, such as access to food, water, health services and housing, negligence which may be directly attributed to the lack of respect for the principle of non-discrimination. As highlighted below, violations of the right to life also derive from the State's deliberate denial of services.

89. The recognition of the interdependence between the right to life and socioeconomic rights is a particularly important step to protect women's right to life because of the gender-based discriminations that women and girls face when seeking to access food, health services, water, land or properties, intersecting more often than not with other discriminations on the basis of race, religion, indigenous status, gender identity or expression.

90. For the vast majority of women and girls, their human rights journey entails confronting a system of State actions and inactions, feeding and fed by systemic discrimination, resulting in violation of their rights to basic necessities and ultimately in a violation of their right to life.

91. The above also suggests that some violations of the right to life, stemming from the non-fulfilment of economic, social and cultural rights, may constitute an arbitrary killing.

92. For instance, States have extensive knowledge of the life-threatening implications of unsafe abortion practices and the consequential number of deaths resulting from this recourse. Every eight minutes, a woman in a developing nation dies from complications arising from an unsafe abortion. The World Health Organization reports that there are approximately 22 million unsafe abortions annually, resulting in 47,000 deaths. Almost all deaths and morbidity from unsafe abortion occur in countries where abortion is criminalized or severely restricted in law and/or in practice. Lower-income and poor women specifically are the most likely to resort to unsafe abortion. Legislation that creates or facilitates access to abortion does not increase their number, rather results in a reduction of mortality from unsafe practices.[78]

---

[75] See *Case of the Sawhoyamaxa Indigenous Community v. Paraguay* (footnote 72 above).

[76] See Committee on the Elimination of Discrimination against Women, communication No. 17/2008, *da Silva Pimentel v. Brazil*, Views adopted on 25 July 2011.

[77] Maternal mortality is particularly problematic among low income, Afro-Brazilian and indigenous women, and women living in rural areas and in the Brazilian north and northeast. See Ministério Da Saúde (Ministry of Health of Brazil), *Uma Análise Da Desigualdade Em Saúde* (2006). Available in Portuguese from www.ans.gov.br/images/stories/Materiais_para_pesquisa/Materiais_por_assunto/relatoriodepesquisa_saude_brasil_2006.pdf.

[78] See WHO, *Safe abortion: technical and policy guidance for health systems* (Geneva, 2012), page 1.

93. The deaths of women and girls from unsafe abortion has been repeatedly linked to the right to life. Treaty bodies and special procedures mandate holders have consistently condemned countries that criminalize and restrict access to abortion, making direct links between the criminalization of abortion, maternal mortality and the right to life. Noting that such laws violate the right to life of pregnant women and other rights, the Human Rights Committee[79] and the Committee against Torture, for example, have expressed concerns about restrictive abortion laws, including absolute bans on abortion, as violating the right to life and prohibition of torture and other ill-treatment.

94. Yet some States choose to impose an absolute ban on abortion and criminalize it. Under the above analysis, the death of a woman, where it can be medically linked to a deliberate denial of access to life-saving medical care because of an absolute legal ban on abortion, would not only constitute a violation of the right to life and an arbitrary deprivation of life, but would also amount to a gender-based arbitrary killing, only suffered by women, as a result of discrimination enshrined in law.

95. Other States have established a conditional ban or created barriers to gaining access to such care where it is legally available.[80] The uncertainty surrounding the process of establishing whether a woman's pregnancy poses a risk to her life, the reticence of the medical profession in the absence of transparent and clearly defined procedures to determine whether the legal conditions for a therapeutic abortion are met, along with the threat of criminal prosecution, all have a "significant chilling" effect on doctors and the women concerned,[81] and greatly increase the likelihood of women seeking unsafe abortion and the likelihood that a substantive proportion of them will suffer lasting injuries or die. Depending on the individual circumstances of each case, one may be able to conclude that these deaths constitute an arbitrary deprivation of life.

IV. Conclusions

96. **The present report has elucidated that a gender-sensitive approach to the right to life, including to arbitrary killings, requires consideration of the impact of gender norms, identity and expression, in intersection with other identity markers, when analysing one, or all, of the following:**

(a) **The nature of the killing or the death, for example, the death penalty, femicide or death as a result of denial of essential health services;**

(b) **The forms of harm and violence (before, during and after death), predicated on an understanding that killing and death is often the outcome of a continuum of violence, including at the economic or social levels;**

(c) **The risks factors or vulnerability to killings or death of certain persons, and the (degree of) predictability of harm. This includes consideration of how certain characteristics or identities intersect with gender to place individuals at particular risk of an arbitrary killing, deprivation of life or violation of the right to life;**

(d) **The relationship between the victim(s) and the perpetrator(s);**

(e) **Access to justice, reparation and remedies before the death and afterwards for survivors. This latter group includes women as secondary victims, following violations of the right to life of relatives;**

(f) **The due diligence of States to respond and prevent killings, carry out investigations, bring perpetrators to justice and address root causes, including gender stereotypes.**

Available from www.who.int/reproductivehealth/publications/unsafe_abortion/9789241548434/en.

[79] See, for instance, general comment 28 (2000) on the equality of rights between men and women.

[80] See European Court of Human Rights, *R.R. v. Poland* (application No. 27617/04), judgment of 26 May 2011.

[81] European Court of Human Rights, *A, B and C v. Ireland* (application No. 25579/05), judgment of 16 December 2010.

97. Some of the key findings in the report include:

(a) Gender is an extraordinarily strong determinant of human rights enjoyment in general, and the right to life in particular. But, taken on its own, it neglects equally important determinants, resulting in ineffective efforts for prevention, investigation, accountability and justice. For instance, the report has highlighted extreme vulnerability to violations of the right to life for such groups as women and girls with disabilities, indigenous women and transgender individuals. The list is non-exhaustive;

(b) The private and the public spheres overlap and intersect, with both being constituted through choices made by States. A failure to appreciate this hides many aspects of the "continuum of violence" suffered by victims of gender-based killings, which, in turn, can make for inadequate and ineffective prevention efforts and responses;

(c) The level of *mens rea* required to demonstrate State's violation of the right to life is not only criminal intent but also negligence through acts of omission or commission, that is, a situation where the State "knew of should have known" but failed to take actions that could have prevented deaths. Such negligence may be best appreciated and evaluated with reference to intrinsic and systemic discrimination, such as gender-based discrimination, but also racial, class and others;

(d) Depending on the specific circumstances, gender-based killings by non-State actors and deaths resulting from the denial of essential services may constitute arbitrary killings;

(e) The continuing extreme exposure of women and girls to killings by their partners and by their family members demonstrates that prevention efforts taken to date are not delivering the desired concrete results. Societies, Governments and public institutions are still largely failing women and girls, particularly those belonging to socioeconomic, ethnic and racial minorities. One has to conclude that misogyny continues to prevail at all levels of societies;

98. A gender-sensitive approach is an evolving approach. One has to learn how to do it, practice doing it, be candidly reflective about one's shortcomings, try again. It keeps evolving, demanding more refined intellectual nuance, greater methodological subtlety.[82] It requires openness of the mind, clarity of objectives, and the recognition that others are likely to strengthen the approach in the months or years ahead.

V. Recommendations

A. Recommendations addressed to States

99. As part of their implementation of the universal jurisdiction principle, States must fulfill their duty to prosecute those responsible for genocide, crimes against humanity, war crimes, torture, enforced disappearances and extrajudicial, summary or arbitrary executions, including gender-based ones. To close the impunity gap regarding gender-based killings in and outside armed conflicts situations, States must investigate and prosecute these crimes, whether committed by State or non-State actors.

100. States should respect the right to life of all persons within their jurisdiction, power or effective control, whether these are within our outside a territory under their control. These include women and girls, as well as lesbian, gay, bisexual, transgender, questioning and intersex individuals, whose right to life may be particularly exposed on the basis of their gender identity or gender expression.

[82] See C. Cohn (ed.), *Women and Wars* (Cambridge, Polity Press, 2013), foreword by Cynthia Enloe.

101. To counter the continuing extreme exposure of women and girls to killings by their partners and by their family members, States must:

(a) Repeal all laws that support the patriarchal oppression of women, including laws that punish sexual relationships outside marriage, exclude marital rape from the crime of rape or grant pardon to rapists who marry their victims, and laws that criminalize adultery;

(b) Repeal all discriminatory laws that limit or otherwise impede women's ability to escape violent relationships, such as discriminatory laws governing inheritance, ownership of property or guardianship;

(c) Remove the defence of "honour" and other such mitigating factors in prosecution of a victim's relatives and engage in community outreach and public education campaigns to raise public awareness about honour-based crimes;

(d) Eliminate impunity for cases of femicide, evaluating current approaches and, on that basis, adopt corrective legal and administrative measures.

102. States should repeal laws criminalizing abortion and ensure that women do not have to undertake life-threatening clandestine abortions.

103. States should remove undue restrictions on access to safe and legal abortions that may threaten women's and girls' rights to life and health, and adopt clear regulations and guidelines on safe and legal abortion for health professionals providing abortion and post-abortion services.

104. With regard to women and girls in detention, States should review laws, criminal procedures and judicial practices to ensure that they take full account of women's backgrounds, including histories of prior abuse and mental illness. Such considerations are particularly crucial in cases involving capital punishment.

105. States should repeal laws that result in the disproportionate detention of women, such as so-called "moral crimes" or criminalization of abortion and adultery.

106. States should ensure access to effective legal representation for incarcerated women, particularly women belonging to disadvantaged minority groups and migrant or refugee women.

107. States should implement fully and expeditiously the Bangkok Rules and establish appropriate gender-specific conditions of detention.

108. States should address effectively gender stereotypes through, for example, community outreach and public education campaigns, and promote women's and girls' participation in public and political life.

109. States should recognize that, by virtue of their gender-based roles, women may be "secondary victims" of violations of the right to life. This gender-specific impact of killings must be further acknowledged, researched, made visible and responded to, including by facilitating and supporting the safety and security of secondary victims, their access to justice and reparations, as well as to mental health care.

110. Noting that on the basis of their gender identity, gender expression or sexual orientation, lesbian, gay, bisexual, transgender, questioning and intersex persons are particularly exposed to violence and killings by both State and non-State actors, States should:

(a) Immediately repeal all laws that criminalize same-sex relationships and/or forms of gender expression. This is particularly crucial in cases involving capital punishment;

(b) Address impunity for murders of lesbian, gay, bisexual, transgender, questioning and intersex persons, including by repealing all laws or policies that allow, justify or condone violence and discrimination on the basis of gender expression and sexual orientation;

(c) **Repeal laws that permit intrusive and irreversible interventions, such as genital-normalizing surgeries or "conversion" therapies;**

(d) **Adopt in law transparent and accessible gender-recognition procedures and abolish preconditions such as sterilization and other harmful procedures;**

(e) **Ensure that judicial and prison authorities, when deciding allocation of trans-gender person to either a male or female prison, do so in consultation with the prisoner concerned and on a case-by-case basis. Safety considerations and the wishes of the individual must be paramount.**

111. **With regard to data collection, States should implement the recommendations of the Special Rapporteur on violence against women, its causes and consequences:**[83]

(a) **Collect and publish data on femicide and other forms of violence against women;**

(b) **Establish a femicide watch or observatories on violence against women;**

(c) **Cooperate to establish and implement a common methodology for the collection of comparable data and the establishment of a femicide watch.**

112. **States should undertake or support further research to assess the extent to which women on death row have been victims of discrimination, including gender-based violence.**

113. **Similar measures to those set out in paragraphs 63 and 64 above should be adopted with regard to violence against and killings of lesbian, gay, bisexual, transgender, questioning and intersex persons, and those on death row.**

114. **In addition, hate crimes statutes should be revised to include gender identity, gender expression and sexual orientation if and where this is not the case.**

115. **States should include violence and killings against women and girls, and on the basis of gender identity and gender expression, as an integral part of refugee status determination and of the implementation of their non-refoulement obligations.**

116. **States should develop mechanisms to analyse whether any arms being assessed for approval for transfer, as well as the granting of licenses on production, will facilitate or contribute to gender-based violence or violence against women by the recipient, in accordance with the obligation on risk assessment processes of the Arms Trade Treaty.**

117. **States should facilitate or undertake increased research on the gendered effects of the use of explosive weapons in populated areas and support international efforts to develop a political commitment to end such use in order to preventing humanitarian suffering.**

118. **States should take concrete measure to ensure a gender-sensitive approach is adopted in respect to:**

(a) **The training of all those involved in the investigation and prosecution of gender-based killings;**

(b) **Reparations, taking into account the gender-specific impact on, harm caused to and suffering of the victims of gender-based violence;**

(c) **Programmes to prevent gender-based killings, ensuring that access to justice, protection measures and legal, social and medical services are designed and implemented in a manner that ensures inclusion and accessibility for all, including those particularly vulnerable to such killings.**

119. **Civil society plays a crucial role in monitoring, analysing, educating, preventing and addressing gender-based violations of the right to life. States should respect and protect human rights defenders and organizations involved in such activities and**

[83] See A/71/398, paras. 75-83.

support financially and strengthen cooperation with individuals and organizations that have experience in documenting gender-based crimes and working with victims of these crimes.

B. Recommendations addressed to the United Nations and civil society

120. **United Nations bodies and civil societies should, in their standard-setting, policies or programmatic interventions:**

(a) **Reaffirm the interdependence of the right to life with economic and social rights;**

(b) **Clarify that the right to life under article 6 of the International Covenant on Civil and Political Rights imposes obligations for the State to address socioeconomic and other systemic factors leading to arbitrary deprivation of life through the adoption of strategies and independent monitoring and complaints procedures;**

(c) **Uphold the notion that violations of the right to life may result from criminal intent but also from acts of omission or commission, including those grounded in systemic discrimination;**

(d) **Clarify that gender-based killings by non-State actors and death resulting from the deliberate denial of essential life-saving services may constitute arbitrary killings;**

(e) **Ensure that the right to life is interpreted consistently with the right to substantive equality and non-discrimination.**

121. **The Special Rapporteur undertakes to continue to engage actively with States and other relevant stakeholders in order to improve the effectiveness of their and her interventions, including with regard to gender-based killings.**

United Nations A/HRC/35/23/Add.1

General Assembly

Distr.: General
11 April 2017

Original: English

Human Rights Council
Thirty-fifth session
6-23 June 2017
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on his mission to Honduras

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on his official visit to Honduras from 23 to 27 May 2016. In the report, the Special Rapporteur presents his main findings, including comments on the situation of violence in the country, the most frequently targeted groups, the policy and legal framework for the protection of the right to life and the lack of systematic accountability for violations of that right.

The Special Rapporteur makes recommendations to all parties involved, the Government, the international community and civil society for the prevention of unlawful killings and better protection of the right to life.

GE.17-05801(E)

1705801

Please recycle

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on his mission to Honduras*

Contents

		Page
I.	Introduction	3
II.	Background	3
III.	Legal and institutional framework for the protection of human rights	4
IV.	Violence in society	5
V.	Violations of the right to life of affected groups	8
VI.	Impunity for violations of the right to life	15
VII.	State response to violence	16
VIII.	Prisons	18
IX.	Engagement with the regional and international human rights protection system	19
X.	Conclusions and recommendations	19

* Circulated in the language of submission and Spanish only.

I. Introduction

1. At the invitation of the Government of Honduras, the Special Rapporteur conducted an official visit to the country from 23 to 27 May 2016. He thanks the Government for extending the invitation and for the extensive cooperation provided during the preparation and conduct of the visit. He appreciates the openness and willingness to engage that he encountered in his meetings. He would also like to thank the country office of the Office of the United Nations High Commissioner for Human Rights (OHCHR) for the valuable support received in the preparation and conduct of the visit.

2. The aim of the visit was to examine the level of protection of the right to life in Honduras, particularly the legal framework and measures in place to prevent attacks on the life, security and physical integrity of individuals, and to ensure justice and accountability for such violations. The Special Rapporteur viewed the visit as particularly important in view of the fact that Honduras had one of the highest homicide rates in the world.

3. During his visit, the Special Rapporteur visited Tegucigalpa and San Pedro Sula and met with numerous officials of the federal and state Governments. At the federal level, he met with authorities from the Office of the Presidency; Ministry of Foreign Affairs, Ministry of Human Rights, Justice, Government and Decentralization; Ministry of Security; Ministry of Defence; Supreme Court of Justice; Public Prosecutor's Office; National Congress, including the committees on justice and human rights and on citizen security; national police; armed forces; National Human Rights Commission and the national preventive mechanism. He also visited the National Penitentiary and the detention centre of the Second Tactical Infantry Battalion, both in Tegucigalpa. In San Pedro Sula, he held meetings with the Governor of the Department of Cortes and the Vice-Mayor of San Pedro Sula and visited the Returnee Migrant Care Centre. He also met with members of the United Nations country team, academia and civil society organizations.

4. The present report focuses on the situation as it was during the visit, although some specific references are made to subsequent developments. The report was sent to the Government for comments on 14 February 2017 and was completed on 28 March 2017.

II. Background

5. In 1963, a military coup in Honduras led to a succession of military Governments that held power almost uninterruptedly until 1981. Democratic Governments ruled until June 2009, when an attempt to hold a ballot to reform the Honduran political process led to the ousting of the democratically elected President, Manuel Zelaya. The international community unanimously condemned the coup, but the Honduran Supreme Court ruled the proceedings to be legal. Reports of human rights abuses against supporters of the deposed President rocketed after the coup, when the de facto Government suspended civil liberties and security forces responded to anti-coup demonstrations with excessive force, causing several deaths and injuries and leading to thousands of arbitrary detentions. Elected President Porfirio Lobo established a truth and reconciliation commission in 2010 to examine the events that had occurred before and after the coup. The commission documented 20 cases of excessive use of force and killings by security forces and set out 84 recommendations. However, little progress has been made in prosecuting those abuses.[1]

6. A series of corruption scandals involving the Government and political parties gave rise in 2015 to a massive anti-corruption movement known as "*los indignados*" (the outraged), whose supporters demanded the establishment of an international commission with investigatory and prosecutorial powers to address crimes and corruption by government officials. In response, the Government announced an initiative in conjunction with the Organization of American States to reform the justice system and strengthen the independence of the judicial branch, which began in April 2016. The announcement of the

[1] See A/HRC/32/35 Add. 4.

creation of the Mission to Support the Fight against Corruption and Impunity in Honduras did not meet the expectations of the "*indignados*" movement.[2]

III. Legal and institutional framework for the protection of human rights

A. Legal framework

7. The Honduran Constitution guarantees as inviolable the rights to life, dignity, physical, moral and mental integrity, and the right not to be subjected to torture or to cruel inhuman or degrading treatment. It also guarantees freedom of expression, movement, speech, thought, religion, assembly and association, and recognizes the writ of habeas corpus and the remedy of *amparo*. The Constitution provides for the creation of the National Human Rights Commission to guarantee the rights and freedoms recognized therein. Under the Constitution, international treaties ratified by the State form part of domestic law as soon as they enter into force, and shall prevail in case of conflict with domestic law.[3]

8. The Honduran Criminal Code was amended in 2011 to define the offences of torture, femicide, hate crimes against women and lesbian, gay, bisexual and transgender persons, incitement to hatred and discrimination through the media. A further amendment in 2012 defined enforced disappearance as a specific offence.

9. In April 2015, the Congress enacted a law to protect human rights defenders, journalists and legal practitioners that led to the creation of a national system of protection, as described in section VII.D below.

B. Role of the National Human Rights Commission

10. The National Human Rights Commission is mandated to receive complaints for human rights violations and provide recommendations to relevant authorities. Its presence is well established throughout the country's 18 departments. Critics have noted the scarce budget of the Commission and the need to improve its independence and internal selection process. In 2011, the Commission was downgraded to B status by the Global Alliance of National Human Rights Institutions.

11. In view of its mandate, the National Human Rights Commission is ideally placed to lead policies in Honduras to better protect the right to life. Analysing developments in the country through the perspective of ensuring better protection for that right in a proactive way should be its main priority. During the visit, it was difficult to see concrete evidence of a close and systematic engagement in this field by the Commission. This is an underutilized resource in the struggle for the better protection of the right to life in Honduras.

C. Human rights action plan and monitoring mechanisms

12. Honduras led a process of consultation to design and adopt its Public Policy and National Action Plan on Human Rights 2013-2022, which transforms into strategic action recommendations from civil society, the human rights treaty bodies and the truth and reconciliation commission. The action plan aims to mainstream a human rights perspective into all State actions.

13. Authorities informed the Special Rapporteur about the creation of the Observatory on Human Rights to monitor the implementation of the action plan and to assess progress

[2] See www.amnesty.org/en/countries/americas/honduras/report-honduras/.

[3] See www.conaprev.gob.hn/index.php/biblioteca-virtual-pdf/send/19-leyes-de-interes/992-constitucion-de-la-republica-de-honduras-actualizada-2014.

on human rights issues. They also informed him about the establishment of a system to monitor implementation of recommendations from international and regional human rights protection mechanisms. This is a positive and welcomed initiative.

D. University Observatory on Violence

14. The Special Rapporteur was impressed with the quality and standing of the work of the Observatory on Violence of the Universidad Autónoma de Honduras. Its statistics are used widely and provide an accurate account of the situation of violence in the country, which is unavailable from other public institutions. The observatory is a national asset and should be treated as such. Its independence should be closely guarded.

IV. Violence in society

15. Violence and insecurity are serious problems that face Honduran society, with major implications for the enjoyment and effective exercise of human rights. Violence grew exponentially since the early 2000s, when the country took on a bigger role in the drug routes from South to North America, which coincided with the infiltration of organized criminal groups and the expansion of gang activity. Following the 2009 coup, societal violence took on bigger proportions and the homicide rate in Honduras became among the highest in the region and the world. According to the Global Study on Homicide,[4] in 2012, Honduras had the highest crime rate in the world, with an annual homicide rate of 90.4 per 100,000 inhabitants. According to the Observatory on Violence, homicide rates remained the highest in the world from 2011 to 2013, before starting to fall, from 79 per 100,000 inhabitants in 2013 to 71.4 in November 2015 and to 60.0 by early 2016.[5]

16. From the discussions the Special Rapporteur had during the visit, violence appears to be the result of several factors, many of them systemic and linked regionally beyond the borders of the country such as gang activity; organized crime; drug trafficking; the arms trade; corruption and extortion; ineffective law enforcement; lack of accountability for crimes against life; and deep and systemic poverty, unemployment, inequality and lack of opportunities for the population. The atmosphere of insecurity is compounded by the increasing militarization of public security and concomitant episodes of excessive use of force by members of the police force, military police and armed forces, sometimes in collusion with organized crime.

17. Although it is difficult to obtain figures, the Special Rapporteur was told that disappearances were also a common occurrence.

18. By all accounts, incidences of violence have gone down to some extent since 2013 but remain at an alarming level. Although it is difficult to pinpoint the exact causes for the decline, it was mentioned during the Special Rapporteur's visit that it could be due to the fact that leaders of gangs had been captured or extradited; the increased teamwork within law enforcement; the role of the military in law enforcement; steps taken against corruption in the police; greater investigative capacity in the police and the prosecution services; greater technological abilities on the part of law enforcement; and some successes in the fight against corruption. This may not tell the full picture, and there is ample room for further study of the causes of the apparent decline.

A. Situation in San Pedro Sula

19. The city of San Pedro Sula, located in the north-west corner of Honduras, grew exponentially in the late nineteenth century when foreign companies received land and tax exemptions to settle in the region, leading to the arrival of thousands of Honduran workers.

[4] Available from www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf.

[5] See Observatory on Violence, National Bulletin No. 40 (February 2016), available from www.iudpas.org/pdf/Boletines/Nacional/NEd40EneDic2015.pdf.

The city soon become the country's manufacturing and commercial hub and currently generates two-thirds of its gross domestic product.

20. In recent years, San Pedro Sula has become a major operational and strategic distribution point in the illegal drug trade. Infiltration of organized crime is compounded by the increased presence of brutal street gangs. As a result, the city has seen a surge in violence and homicides, becoming the city with the highest homicide rate in the world between 2011 and 2014.[6] Violence has led to substantial internal displacement and migration abroad.

B. Police abuse and corruption

21. There is widespread acceptance that the police has over many years not fulfilled its function as it should have. In many cases, it has not addressed the problem of crime, including violent crime, and has in fact become part of the problem.

22. Police corruption further affects the atmosphere of insecurity, with reports of police elements being involved in soliciting bribes, extortion, murder and acting in collusion with gangs and organized criminal groups. In at least five cases, police officers have been implicated in death squad-style killings of gang members. During the visit, the Special Rapporteur encountered numerous reports of killings by police, military police and military officers. According to the Observatory on Violence, police killed 285 people between 2012 and 2015. Not all of those cases were unjustified, but they are often not properly investigated. Impunity is the rule. Investigations and effective prosecution for the crimes seems to be limited to only a few high-profile cases or cases in which the families of the victims had to push the investigations or assist in obtaining evidence.

C. Gangs and organized criminal groups

23. Presence of street gangs known as *maras* is rampant in Honduras, especially in big cities such as Tegucigalpa and San Pedro Sula. They are mostly descendants of gangs formed in Los Angeles and deported in the 1990s, including groups such as Mara Salvatrucha and Barrio 18. *Maras* are involved in many criminal activities, such as drug trafficking and extortion, and operate with brutal violence, controlling the lives of residents in gang-controlled neighbourhoods. Local populations are forced to pay "taxes" to gangs in exchange for security in what is referred as "tax war". During his visit, the Special Rapporteur received reports of children and young people being forced to collect those "taxes" or sell drugs. Those who refuse are often killed, leaving children with only two options: join gang activity or migrate, which in turn exposes them to a new series of risks. People involved in transportation and business owners are subject to similar treatment. Young women are forced to carry drugs and guns and are often raped, tortured or killed in gang disputes.

24. Owing to lack of control in certain areas, corruption or lack of political will, State security forces offer limited or no protection to these communities. Authorities are not exempt from the challenges and risks posed by organized crime. For example, the Chief of the Attorney General's Directorate for Combating Drug Trafficking was shot dead in 2009 by suspected cartel hitmen.

25. It should be emphasized that the State remains responsible for the protection of all citizens from threats to their lives and security and, if it does not take reasonable measures in that regard, the State is in violation of the right to life.

[6] See the 2014 annual ranking of the 50 most violent cities, available in Spanish from www.seguridadjusticiaypaz.org.mx/biblioteca/download/8-prensa/198-las-50-ciudades-mas-violentas-del-mundo-2014.

D. Personal use of firearms

26. Violence is also heightened by the extensive personal use of firearms, facilitated by highly permissive legislation on arm possession and the rampant proliferation of private security companies. In response to high violence rates in the country, people have resorted to buying guns and hiring the services of private security companies.

27. The Law on the Control of Firearms, Ammunition, Explosives and other Similar Items allows anyone to request one or more licenses to possess and carry firearms. The right to register up to five firearms was recently reduced to three. Estimates put the number of firearms in circulation in Honduras at 800,000 to 1,000,000, of which only 282,000 are registered.[7] It is evident that this permissive regulation has contributed to the spiralling violence in the country and facilitated access to weaponry by gangs, organized criminal groups and private security companies. A new draft law on gun control is currently being considered by the National Congress, with a view to tightening regulations and access to guns.

E. Private security companies

28. In a report, the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination indicated that there were 700 private security companies registered in Honduras, as well as 60,000 private guards, many of whom were illegal and unregistered. Given that there were 14,000 police officers in Honduras, the ratio of private security personnel to police was almost 5 to 1.[8]

29. The provision of private security services is subject to the Organic Law of the National Police and the Regulations for the Control of Private Security Services. The law entrusts the Ministry of Security to authorize, regulate and supervise private security companies and creates a control unit for private security services to control and monitor these companies. However, the authorities do not implement that mandate effectively. There are insufficient vetting processes for the licensing of such companies and their agents, inadequate supervision of their operations and a lack of control of the weapons used and the training provided to private security agents. Many companies are reportedly owned by or constituted of agents who are former military or police officers, including officers suspected of past human rights violations. In addition, while the existing framework regulates the types of weapons that companies may use, it does not set the conditions for the use of arms and force. Moreover, violations of the Law and the Regulations do not seem to result in the revocation of licenses or sanctions.

30. It is clear that in many cases private security providers play a positive role, for which the police is currently not equipped. At the same time, they can and in some cases do form part of the problem of excessive violence in society. The legal framework within which they operate appears to be insufficient. The sector needs to be better regulated and controlled. According to information from the Government received subsequent to the visit, the Congress is considering a draft law on private security services aiming at reinforcing regulations and forbidding certain public officials to hold ownership of private security companies. Other sources indicated that the law had been pending approval for two years and didn't preclude anyone with a criminal or disciplinary record from being a member of such companies.

31. Private security staff have been linked to numerous attacks and killings, for example, in areas of high social conflict. However, in a study, it was found that during investigations police and prosecutors in Bajo Aguán routinely failed to take adequate steps to ascertain the possible involvement of private security agents in serious crimes, including

[7] See Inter-American Commission on Human Rights, *Situation of Human Rights in Honduras* (December 2015), p. 27. Available from www.oas.org/en/iachr/reports/pdfs/Honduras-en-2015.pdf.

[8] See A/HRC/24/45/Add.1, para. 14.

by requisitioning work records of staff on duty at a given time or by making weapons inventories of private security companies.[9]

32. The State has the primary responsibility to protect individuals from the depravation of life by non-State actors and to bring perpetrators to justice. While private security agents are not public officials, they are still bound by domestic regulations and are obliged to respect the rights of citizens.

V. Violations of the right to life of affected groups

33. The persons targeted with violence and intimidation by State and criminal actors in retaliation for their work include human rights defenders; indigenous, peasant and Afrodescendent leaders involved in land disputes; lesbian, gay, bisexual and transgender activists; justice operators; and journalists.

34. From 2006 to 2015, the Inter-American Commission on Human Rights granted 49 precautionary measures for persons at imminent risk in Honduras. Beneficiaries between 2009 and 2015 included 34 per cent of peasants, 17 per cent of journalists, 14 per cent of indigenous persons, 7 per cent of environmental rights defenders and 6 per cent of lesbian, gay, bisexual and transgender persons. According to a study conducted in 2016 by civil society organizations, 99 per cent of beneficiaries considered that those measures had not granted them security because the protection mechanisms offered by the government had been inadequate or ineffectively implemented.

35. The Special Rapporteur is deeply concerned at the failure of the authorities to effectively implement the precautionary measures of the Inter-American Commission on Human Rights and to provide protection to members of these targeted groups.

A. Human rights defenders

36. Human rights defenders are attacked by sectors opposed to their work and by those they have exposed for human rights violations. From 2010 to 2015, there were 22 murders, 2 disappearances and 15 kidnappings of human rights defenders. In total, 14 human rights defenders benefiting from the precautionary measures of the Inter-American Commission on Human Rights were killed.[10]

37. During his visit, the Special Rapporteur received many reports about the lack of investigation into killings, threats and violence against human rights defenders. Civil society organizations have also reported the ineffectiveness of the Public Prosecutor's Office and the Honduran judiciary in responding to these attacks.[11] More than 90 per cent of cases remain unpunished.[12]

38. Violence against human rights defenders is also underreported. Reports have included estimates that, of the more than 109 cases of human and environmental rights defenders killed between 2010 and 2015, only 8 were reported publicly.[13]

39. A case brought to the attention of the Special Rapporteur was the killing two months before his visit of world-renowned indigenous and land rights defender, and beneficiary of precautionary measures, Berta Cáceres. An investigation by the Public Prosecutor's Office led to the detention of eight persons, including an active mayor of the armed forces, a

[9] See www.hrw.org/report/2014/02/12/there-are-no-investigations-here/impunity-killings-and-other-abuses-bajo-aguan.

[10] See *Situation of Human Rights in Honduras*, pp. 28-29.

[11] See www.omct.org/files/2016/05/23748/honduras_030516_eng.pdf; and Amnesty International report No. AMR37/2193/2015, available in Spanish from www.amnesty.org/en/documents/amr37/2193/2015/es/.

[12] See Global Witness, "¿Cuántos más?" (2015), available from www.globalwitness.org/en/campaigns/environmental-activists/cuantos-mas, p. 16.

[13] See www.devp.org/en/blog/honduras-impunity-murders-human-and-land-rights-defenders.

former lieutenant and former private security guard at the hydroelectric company — against which Ms. Caceres had led a legal battle — and a high-ranking employee at the hydroelectric company. The Government informed the Special Rapporteur that investigations regarding the masterminds of the crime were ongoing. Many feared, however, that the prosecutions would not lead to effective convictions and that the masterminds of the crime would remain unpunished. The Special Rapporteur was informed that the family and colleagues of Ms. Cáceres had demanded the establishment of an independent international mechanism to assist in the investigation of her death. Concerns grew further when Ms. Cáceres' case file was stolen in late September 2016 from a car driven by a Supreme Court magistrate, which prompted the Mission to Support the Fight against Corruption and Impunity in Honduras to demand an urgent investigation into the robbery and condemned the serious irresponsible action of the judge concerned.[14] The case file had reportedly included evidence against several suspects.[15] The file was rebuilt on the basis of copies kept in court. Sensitive information about Ms. Caceres legal case was also stolen from the offices of the Broad Movement for Justice and Dignity. The Special Rapporteur continues to follow the case.

B. Journalists and media workers

40. The general context of violence against journalists and media workers in Honduras worsened after the 2009 coup d'état and persists to date. Journalists are victims of physical assaults, attacks, death threats and homicide. In total, 36 journalists were killed in Honduras between 2010 and 2014.[16] Although estimates vary regarding the exact number, all show a dramatic increase in homicides in 2010 compared with previous years.[17] The National Human Rights Commission reported that 43 journalists had been murdered between 2010 and 2014. While numbers have been declining since 2011, they have not fallen back to pre-coup levels.[18]

41. Authorities fail to investigate effectively and prosecute most crimes against journalists. In February 2015, the National Human Rights Commission reported that the lack of effective investigations affected 96 per cent of the cases and that authorities had handed down convictions in only 4 per cent of the 50 cases in which media workers had been killed between 2003 and 2014.[19]

42. The lack of accountability for crimes against journalists impedes the establishment of whether the crimes are connected with their work and thus promotes the notion that journalists are simply victims of generalized violence.

43. Since 2013, the Section on Violent Deaths of Persons from Vulnerable Groups of the Office of the Special Prosecutor for Crimes against Life deals with cases of violence against journalists and other affected groups, a responsibility previously assigned to the Special Prosecutor for Human Rights Defenders. The transfer reportedly led to a reduced focus on the particularities of violence against journalists.[20]

---

[14] See www.oas.org/en/media_center/press_release.asp?sCodigo=E-102/16.

[15] See www.amnesty.ca/our-work/individuals-risk/berta-caceres-and-human-rights-defenders-honduras.

[16] Data from the Section on Violent Deaths of Persons from Vulnerable Groups, provided by the Government.

[17] See PEN International, *Journalism in the Shadow of Impunity* (Toronto and London, 2014), p. 19. Available from www.pen-international.org/wp-content/uploads/2014/01/Honduras-Journalism-in-the-Shadow-of-Impunity1.pdf.

[18] See Human Rights Watch, *World Report 2016* (New York, 2015), p. 293. Available from www.hrw.org/sites/default/files/world_report_download/wr2016_web.pdf.

[19] See *Situation of Human Rights in Honduras*, p. 83, and article by *Teleprensa*, available in Spanish from www.teleprensa.com/honduras/11-personas-vinculadas-a-los-medios-de-comunicacion-murieron-en-circunstancias-violentas-en-honduras.html.

[20] See *Journalism in the Shadow of Impunity*, p. 29.

C. Lesbian, gay, bisexual and transgender persons

44. The Special Rapporteur received reports of a high number of attacks and killings against lesbian, gay, bisexual and transgender persons. In total, 123 homicides were registered between 2010 and 2014.[21]

45. Of the 216 cases registered by civil society organizations between 2004 and 2015, 103 victims were gay, 78 transgender and 13 lesbian.[22]

46. The Section on Violent Deaths of Persons from Vulnerable Groups investigates such deaths. The Public Prosecutor's Office informed the Special Rapporteur that, of the 232 killings registered from 2008 to March 2017, investigations had led to 48 prosecutions, 19 convictions and 9 acquittals.

47. While the Special Rapporteur welcomes the amendments to the Criminal Code criminalizing hatred on the basis of sexual orientation or gender identity, he is concerned to learn that investigations into deaths of lesbian, gay, bisexual and transgender persons continue to be influenced by discriminatory stereotypes,[23] and that a fraction (20.6 per cent) of murder cases appear to lead to prosecutions.

D. Justice operators

48. Justice operators, comprising lawyers and members of the judiciary, are frequently threatened, attacked or killed as a result of their profession. The Observatory on Violence registered 115 homicides between January 2009 and December 2015. Killings are mainly concentrated in the Central District and San Pedro Sula (66 per cent). In 67.8 per cent of cases, killings are attributable to organized crime or hitmen.[24]

49. Five prosecutors were killed between 2009 and 2015:[25] the Chief of the Directorate for Combating Drug Trafficking; the Chief Prosecutor of the Anti-Money Laundering Unit;[26] a leading criminal investigator on car thefts;[27] the Coordinator of the Office of the Special Prosecutor for Crimes against Life; and the Special Prosecutor for environmental protection.[28] The Government reported that one of the murders had been prosecuted, while investigations continued regarding the masterminds of the crimes. Twelve judges were killed in the same period.[29]

50. Attacks and impunity for these crimes have a chilling effect on members of the judiciary, who will be less likely to investigate and adjudicate politically sensitive cases owing to fear of retaliation, thus reproducing existing impunity patterns, sanctioning future crimes and reducing further public trust in the judicial system.

51. In total, 96 lawyers were killed between 2009 and 2015.[30] The Government noted that several criminal cases had been opened, while other reports indicated that, of the 53 homicides registered between 2010 and 2012, more than 95 per cent had gone unpunished.[31] As lawyers play an important role in defending human rights and

---

[21] Data from the Office of the Special Prosecutor for Crimes against Life provided by the Government.

[22] See Asociación para una Vida Mejor de Personas Infectas y Afectadas por el VIH-SIDA en Honduras, *Informe sobre muertes violentas por crímenes de odio motivados por orientación sexual e identidad de género en Honduras* (Tegucigalpa, December 2015), p. 25. Available in Spanish from www.ci-romero.de/fileadmin/media/informieren-lacnder/honduras/INFORME_2015_CRIMENES_D%_ODIO_APUVIMEH.pdf.

[23] See www.oas.org/en/iachr/media_center/preleases/2014/146a.asp.

[24] Observatory on Violence, Special Bulletin No. 45 (January 2016), pp. 1-2. Available from www.iudpas.org/pdf/Boletines/Especiales/BEP_E045.pdf.

[25] Ibid, p. 3.

[26] See www.insightcrime.org/news-briefs/honduras-top-anti-money-laundering-prosecutor-murdered.

[27] See www.theguardian.com/world/2013/may/15/san-pedro-sula-honduras-most-violent.

[28] See www.cejil.org/es/cejil-condena-nuevos-asesinatos-fiscales-honduras.

[29] See Observatory on Violence, Special Bulletin No. 45, p. 3.

[30] Ibid.

[31] See *Journalism in the Shadow of Impunity*, p. 29.

strengthening the rule of law, impunity thrives when they are persecuted as a result of their profession.

E. Indigenous and land rights defenders: situation in Bajo Aguán

52. Indigenous leaders, land right defenders and peasants are also affected disproportionally by attacks, murder, intimidation and threats, particularly those who defend their territories and natural resources in the context of development projects. Serious human rights violations have been attributed to private security guards hired by landholding companies, the police and the military.

53. Reportedly, a total of 111 environmental activists, particularly in indigenous communities, were murdered between 2002 and 2014, making Honduras the most dangerous country in the world for land and environmental defenders in that period.[32]

54. The Tolupán indigenous community is among the most affected by violence, with about 100 murders over the past decade, most of which remain unpunished.[33] Members of the independent indigenous Lenca movement for peace, which opposes the construction of hydroelectric projects on the territory of the Lenca people, have endured a series of assaults, threats and killings since 2013.[34] The Honduras civil council of popular and indigenous organizations, an indigenous Lenca organization supporting environmental and indigenous rights, has experienced persisting violence. Attacks intensified since the murder of their co-founder, Berta Caceres, after which the Inter-American Commission on Human Rights granted them precautionary measures. The national authorities have failed to implement the measures. Another member of the council was killed in March 2016[35] and two suffered attempted murders in May 2016.[36]

55. Violence and threats against indigenous communities take place in the context of land incursions by drug traffickers, for example, in the Garífuna and Tolupan communities.[37] Law enforcement officials also exert violence in this context. In May 2012, four members of the Miskito community of Ahuas died and others were wounded in an anti-drug operation conducted by officials from Honduras and the United States of America. In December 2015, two young Garífuna men were killed by military personnel who had suspected them of being drug traffickers.[38]

56. The Government has established the Office of the Special Prosecutor for Ethnic Groups and Cultural Heritage. However, complaints filed by community members are not effectively investigated or prosecuted.[39]

Bajo Aguán

57. The Special Rapporteur received many reports about the numerous attacks against peasants and land right defenders in Bajo Aguán by private security agents and security forces. In May 2014, the Inter-American Commission on Human Rights granted precautionary measures to 123 defenders in the region, but their lives remained at risk.[40] The National Human Rights Commission reported that 92 people had been killed between 2009 and 2012, most of whom had been active members of peasant organizations.[41] In

[32] See "¿Cuántos más?", p. 16.
[33] See A/HRC/33/42/Add. 2, para. 22.
[34] See A/HRC/32/53, case HDN 1/2016; and *Situation of Human Rights in Honduras*, pp. 39-40 and 42.
[35] See A/HRC/33/32, case HDN 3/2016.
[36] See www.fidh.org/es/temas/defensores-de-derechos-humanos/honduras-situacion-de-los-defensores-de-derechos-humanos.
[37] See *Situation of Human Rights in Honduras*, pp. 44-45.
[38] A/HRC/33/42/Add. 2, para. 26
[39] See *Situation of Human Rights in Honduras*, p. 46.
[40] See https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=22828 (available in Spanish only).
[41] See www.hrw.org/report/2014/02/12/there-are-no-investigations-here/impunity-killings-and-other-abuses-bajo-aguan.

2015, the Government reported that 127 persons had died since the land conflict started in 2009, including farmers, security guards and others.[42] In 2016 alone, 11 human rights defenders had been killed and 9 left the country owing to attacks and intimidation.[43] The Secretary of Security reported three such killings in 2016.

58. In most cases, the perpetrators have not been identified or prosecuted. In a 2014 report on impunity in the Bajo Aguán, it was noted that prosecutors and police had failed to perform the most basic investigative steps necessary to identify and prosecute suspects and had not followed criminal forensic procedures to preserve the crime scene, collect evidence, conduct autopsies and search for the missing.[44]

59. While the Public Prosecutor's Office established in 2014 the Special Unit for the investigation of violent deaths in Bajo Aguán to address a backlog of 147 pending cases, impunity levels remain alarmingly high and transparency concerns persist.[45]

F. Refugees, asylum seekers and internally displaced persons

60. The impact of gang violence and organized crime in certain regions of the country is leading to the forced migration of thousands of persons who try to avoid extortion, forced integration to gangs, sexual violence and killings.

61. According to the Internal Displacement Monitoring Centre, at the end of 2014, there were an estimated 29,400 internally displaced persons in Honduras.[46] The Office of the United Nations High Commissioner for Refugees (UNHCR) reported that, between 2004 and 2014, 174,000 persons had been affected by internal displacement owing to violence.[47] In a 2015 study, it was reported that persecution and insecurity had been the determining factors of displacement for 67.9 per cent of internally displaced households, particularly threat, murder, injury, extortion, insecurity and sexual violence.[48]

62. The impact of violence is also evident in the growing number of Honduran asylum seekers and refugees in neighbouring countries, Mexico and the United States. UNHCR reported a 1,153 per cent increase in the number of asylum applications from — 810 to 10,146 — between 2012 and 2014, and a 59 per cent increase in the number of refugees, from 2,613 to 4,159, in the same period.[49]

63. Migrants on route to northern countries face numerous risks and many end up as victims of trafficking networks that subject them to kidnapping, torture, mutilation or murder. In recent years, around 400 Honduran migrants were reported missing on their way to the United States.[50] Three mass graves were found in Mexico between 2010 and 2012, which contained the remains of dozens of migrants who had been in transit including from Honduras. The relatives of the victims reported delays in the repatriation of the remains and difficulties in gaining access to justice.

---

[42] See *Situation of Human Rights in Honduras*, p. 69.

[43] See www.fidh.org/es/temas/defensores-de-derechos-humanos/honduras-asesinato-de-fernando-aleman-banegas-hijo-de-la-defensora; and Amnesty International, report No. AMR37/5015/2016, available from www.amnesty.org/en/documents/amr37/5015/2016/en/.

[44] See www.hrw.org/report/2014/02/12/there-are-no-investigations-here/impunity-killings-and-other-abuses-bajo-aguan, pp. 3, 21 and 57.

[45] See www.omct.org/es/human-rights-defenders/urgent-interventions/honduras/2016/04/d23697/.

[46] See Internal Displacement Monitoring Centre, *Global Overview 2015* (Geneva, May 2015), pp. 16-19. Available from www.internal-displacement.org/assets/library/Media/201505-Global-Overview-2015/20150506-global-overview-2015-en.pdf.

[47] See UNHCR, Protection and Solutions Strategy for the Northern Triangle of Central America 2016-2018 (Geneva), p. 6. Available from http://reporting.unhcr.org/sites/default/files/Protection%20and%20Solutions%20Strategy%20for%20the%20Northern%20Triangle%20of%20Central%20America%202016-2018.pdf.

[48] See A/HRC/32/25/Add.4, p. 7.

[49] See *Situation of Human Rights in Honduras*, pp. 64-65.

[50] Ibid., para. 146.

64. Many migrants are deported to Honduras while in transit or on arrival at their country of destination, even those who face serious risks back home. UNHCR reported that 249,618 Hondurans had been deported between 2011 and 2014.[51] In the United Sates alone, 20,309 Hondurans were deported in 2015[52] and 10,468 unaccompanied migrant children were apprehended in 2016.[53] On their return to Honduras, many of the deportees face the same perils they had attempted to elude. As at 2014, 35 returnees had been killed soon after arriving in Honduras.[54] The Special Rapporteur on the human rights of internally displaced persons received confirmation from United States officials that criminal activity in their home countries was not considered grounds for individuals to claim asylum.[55]

65. The Special Rapporteur was informed about the precarious conditions of detention of Hondurans deportees held in United States migration detention centres and was particularly alarmed at reports of deportees detained in cold cells referred as "iceboxes". He was also informed that Hondurans were prevented from gaining access to the relevant authorities to process their asylum requests or were deported before they could get a chance to submit them. In total, 80 per cent of Hondurans were placed in expedited removal procedures in which asylum claims were not properly considered.[56] Civil society organizations have also noted the precarious conditions and abusive treatment received by Honduran deportees in Mexican detention centres and the lack of information about asylum procedures offered to migrants victims of violence.[57] Mexican authorities also return migrants in immediate danger.

66. The Special Rapporteur visited the Returnee Migrant Care Centre in San Pedro Sula and was impressed by the commitment of its staff and the quality of the support provided to Hondurans returnees before being transferred to their hometowns. While he encourages the Government to maintain and support this much needed initiative, he warns about the need to establish medium- and long-term measures to support the returnees' reinsertion in their communities and to guarantee their safety and integrity, especially to those at risk of violence.

67. To respond to this critical situation, in 2013 the Government established the Inter-institutional Commission for the Forced Displacement of Persons, and is currently working on a draft law on migration to regulate the situation of refugees, asylum seekers and stateless persons, and a draft law to protect and assist displaced persons and prevent forced displacement.

G. Women

68. Women in Honduras suffer high levels of violence, including murder, domestic violence and rape. As noted by the Special Rapporteur on violence against women, its causes and consequences, violence against women is widespread and systematic and compounded by a climate of fear in the public and private spheres.[58] A total of 4,013 women were killed between 2005 and 2014, and 478 femicides were registered in 2015.[59] Reports indicate a 263.4 per cent increase in femicides between 2005 (175 cases) and 2013

[51] UNHCR, p. 5.

[52] See www.ice.gov/sites/default/files/documents/Report/2016/fy2015removalStats.pdf.

[53] See www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2016.

[54] See A/HRC/32/35/Add. 4.

[55] Ibid.

[56] See www.hrw.org/report/2014/10/16/you-dont-have-rights-here/us-border-screening-and-returns-central-americans-risk.

[57] See Casa Alianza, "Monthly report: September 2016", p. 20. Available in Spanish from www.casa-alianza.org.hn/images/documentos/CAH.2016/01.Infor.Mensuales/09.%20informe%20mensual%20septiembre%202016_cah.pdf.

[58] See A/HRC/29/27/Add.1, para. 9.

[59] See Observatory on Violence, Bulletin on Women's Violent Deaths and Femicide No. 10, (January-December 2014), p. 1, available from www.iudpas.org/pdf/Boletines/Genero/MMEd10EneDic2014.pdf; and National Bulletin No. 40, p. 3.

(636 cases),[60] and a 281 per cent increase in disappearances of women between 2008 (91 cases) and 2013 (347 cases).[61]

69. The situation is compounded by gang activity. Women are often killed to settle gang disputes, or subjected to rape, torture and mutilation.

70. The Special Rapporteur on violence against women noted a culture of impunity and lack of accountability for these crimes. Despite the establishment in 2013 of femicide as a specific offence, very few cases have been tried under this offence.[62]

71. In 2013, the Unit for the Investigation of Crimes against Women's Lives of the Office of the Special Prosecutor for Women, which handled femicides and violent deaths of women, was transferred to the Section on Investigation of Violent Deaths of Women of the Office of the Special Prosecutor for Crimes against Life to ensure a gender dimension to investigations. The Office of the Special Prosecutor for Crimes against Life adopted a manual for such investigations and trained justice operators nationally. Critics voiced concern that this transfer would result in a loss of a gender perspective for criminal investigations.[63]

H. Children and young people

72. The context of violence and insecurity in Honduras puts children and adolescents in a particularly vulnerable position. In total 21,710 children suffered violent deaths between January 2010 and March 2016.[64] A civil society organization reported 79.26 deaths per month between January 2014 and December 2015.[65] While in most cases the perpetrators remained unidentified and unpunished, reports indicated that security forces had been involved in the killing of at least seven children and adolescents between June and December 2015.[66]

73. Children living in areas under the influence of *maras* are placed in particular distress as they are both harassed, threatened and attacked by gang members, and stigmatized, discriminated against and mistreated by law enforcement forces, who often regard them as potential criminals or gang members.[67]

74. Young students are also frequently targets of violence. At least 1,183 students were killed in Honduras between 2010 and 2016, of whom 52 per cent had been secondary school students and 13.5 per cent had been university students.[68] Young people are particularly targeted for their participation in protests and other forms of public demonstrations. In March 2015, Honduran society was shocked to learn about the killing of four young people who had participated in student protests. One of the victims, a 13-year-old girl, had been seen expressing her demands on television days before her body was found in a bag with signs of torture.

75. Civil society organizations reported a worrying increase in cases where bodies were found with signs of torture, strangled to death, in plastic bags, tied with ropes or wrapped in

[60] See *Situation of Human Rights in Honduras*, p. 52.
[61] See A/HRC/29/27/Add.1, para. 19.
[62] Ibid, paras. 9 and 76.
[63] See United Nations Development Programme, United Nations Entity for Gender Equality and the Empowerment of Women and USAID, *Violencia y seguridad ciudadana: una mirada desde la perspectiva de género* (Tegucigalpa, 2015), available in Spanish from hn.undp.org/content/dam/honduras/docs/publicaciones/diagnosticogeneroyviolencia.pdf.
[64] See Observatory on Violence, Special Bulletin No. 42 (June 2016), p. 1. Available from www.iudpas.org/pdf/Boletines/Especiales/BEP_Ed42.pdf.
[65] See Casa Alianza, "Monthly report: December 2016", p. 31. Available in Spanish from www.casa-alianza.org.hn/images/documentos/Comunicados/CAH.2015/Informes.Mensuales.2015/12.%20informe%20mensual%20diciembre%202015_cah.pdf.
[66] Ibid, p. 33.
[67] See *Situation of Human Rights in Honduras*, p. 48.
[68] See Observatory on Violence, Special Bulletin No. 42, p. 1.

sheets.[69] During the visit, the Special Rapporteur received numerous and concerning reports about the existence of extermination squads that targeted children. The actions of these squads were reportedly motivated by considerations of "social cleansing".

VI. Impunity for violations of the right to life

76. Impunity is a widespread problem in Honduras that has a particular affect on violations of the right to life. Lack of resources and technical capacity, intimidation and killings of justice operators, lack of independence of the judiciary, corruption of public officials and infiltration by organized crime are substantial barriers to obtaining justice and have virtually stalled the judicial system.

77. The Special Rapporteur received information about corruption, infiltration and interference with the judiciary, including in the handling of cases and in the appointment or dismissal of judges and prosecutors. Interest groups or individuals often bribe, threaten or attack judges to influence their work. Lack of independence and corruption within the judiciary hampers the institutional capacity of the criminal justice system to respond effectively to human rights violations and ensure accountability.

78. In addition, the country's prosecutorial services have been marred by accusations of inefficiency and lack of will to investigate criminal cases, particularly high profile ones. Inadequate forensic protocols and services, overreliance on witness testimonies in judicial procedures, and police refusal to carry out crucial investigative tasks that prosecutors assign to them[70] further obstructs the administration of justice and hinders accountability.

79. As a result of these shortcomings, impunity affects 97 per cent of murder cases in Honduras.[71] The level of impunity in connection to violations of the right to life is alarming and one of the determinant factors in the spiralling of violence, as the prospect of prosecution is not an effective deterrent of crime. It also frustrates expectations and chances for justice and reparation for victims of human rights violations.

80. The absence of accountability sends a message to society that violence is tolerated by the State and undermines the public's trust in the authorities. The lack of public confidence in the judicial system and its institutional capacity to obtain justice for victims is also likely to exacerbate the underreporting of crimes. Some reports indicate that only 20 per cent of all crimes are reported in Honduras, which is alarmingly low.[72]

81. The Government informed the Special Rapporteur that measures had been adopted to address impunity and corruption, including the establishment of the Mission to Support the Fight against Corruption and Impunity in Honduras and a collaboration agreement with the organization Transparency International for the promotion of transparency, combating of corruption and strengthening of integrity systems.

82. The Special Rapporteur was dismayed to observe the lack of reliable statistics on the number of homicides that led to prosecutions, including of security forces. The lack of reliable figures hinders transparency and exacerbates people's mistrust in institutions.

83. The overly broad interpretation of confidentiality requirements in Honduran criminal procedures — by which police and prosecutors refuse to provide information on the status of investigations to families of victims — also affects transparency, trust and accountability.

---

[69] See Casa Alianza, "Annual report: 2014", p. 18. Available from www.casa-alianza.org.hn/images/documentos/Comunicados/CAH.2015/Informes.Mensuales.2015/situacin%20de%20derechos%20de%20nios%20nias%20y%20jvenes%20en%20honduras.pdf.

[70] See www.hrw.org/report/2014/02/12/there-are-no-investigations-here/impunity-killings-and-other-abuses-bajo-aguan, p. 21

[71] See A/HRC/32/35/Add.4, p. 5, and www.amnesty.org/es/countries/americas/honduras/report-honduras/.

[72] See *Journalism in the Shadow of Impunity*, p. 28.

84. States are under the immediate obligation to ensure accountability where there are arbitrary losses of life, including proper investigations. A failure to do so could amount to a breach of the right to life.

VII. State response to violence

A. Legislation in response to gang violence

85. In response to rampant gang violence, the Congress adopted in October 2001 Legislative Decree No. 141-2001 on prevention, rehabilitation and social reintegration, which aimed to address the causes that led individuals to join gangs and to rehabilitate and reintegrate them into society, and created the National Prevention, Rehabilitation and Social Reintegration Programme. In 2003, article 332 of the Criminal Code, on unlawful associations, was amended to criminalize illicit association, as part of an iron-fist (*mano dura*) approach, effectively criminalizing gang membership. It has been criticized for criminalizing also the actions of vulnerable persons coerced into gang membership. In July 2015, the Parliament approved reforms to the penal code, introducing harsher penalties for members of the *maras*, increasing the maximum prison terms for gang leaders from 30 to 50 years and for lower-level members from 20 to 30 years.[73]

B. Police reform

86. There is an important and much needed effort under way to clean up the work and the image of the police and to develop its technical capabilities.

87. Several attempts at cleaning up the national police have taken place since 2011. However, efforts to address endemic corruption and abuses within the police force have made little progress. The most recent purge was initiated in April 2016 with the establishment of the Special Commission for the Process of Purge and Transformation of the National Police, in response to the public outcry when information was published that the higher ranks of the institution had been involved in the killing of the Chief of the Directorate for Combating Drug Trafficking. The Special Commission was given a one year mandate to assess the members of the entire force, starting at the top. By the end of 2016, it had evaluated 4,934 officers and had terminated the contracts of 2,183, mostly (1,949) as part of an internal restructuring effort. However, files relating to 15 officers were referred to the Public Prosecutor's Office for Criminal Investigation by November 2016. In September 2016, the Office established a special unit to support the clean-up process.

88. The clean-up process is ambitious and far-reaching, and in principle a positive step. At the same time, it is important to have a clear legal framework for such an undertaking, including the criteria used to ensure that the system can resist legal and other challenges. A good plan that is poorly implemented can close many doors in the future.

89. The work of the Special Commission is undertaken in parallel with a restructuring of the police, renewed qualification programmes that include training on human rights and the gradual use of force, and a plan to increase the police corps from 14,000 to 26,000 agents by 2019. In addition, a proposed reform to the Organic Law of the National Police and a new Police Career Law were under consideration by the National Congress. A new manual on the use of force was developed in collaboration with the International Committee of the Red Cross, but is not before Congress.

C. Militarization

90. One of the main focuses of the response of the Government to violence has been the militarization of public security through the establishment of a series of new measures and

[73] See A/HRC/32/35/Add.4, p. 15.

entities. Decree 168-2013 of August 2013 provided for the creation of the Military Public Order Police to support the national police in confronting the challenges posed by organized crime, drug trafficking and gang activity. The measure had originally been intended as a short-term emergency response while the national police entered a process of reform and depuration, and murder rates remained high.

91. While the support of the military had been welcomed by certain sectors of society, including members of the national police, many others had raised concern about the expected negative repercussions of the militarization of society and the insufficient legal specification of the functions of the military police and its use of force. The introduction of the military police, although understandable as an emergency response, requires the adoption of clearly defined roles and rules of engagement to prevent abuses by an armed body trained for the conduct of war and not for the provision of citizen security. In his meetings with relevant authorities, the Special Rapporteur was unable to get a clear picture of the legal framework applicable to the use of force by the military police, which is a matter of concern.

92. According to reports from civil society, human rights abuses by the military have increased with the militarization of citizen security. Between 2012 and 2014, agents of the military police were accused of involvement in at least nine killings, more than 20 cases of torture and about 30 illegal arrests. At least 24 soldiers were under investigation in connection with the killings.[74]

93. A special unit within the national police known as TIGRES was created by decree in 2013. The unit is mandated to act in special operations undertaken in the context of high-impact crimes, such as drug trafficking and organized criminal activity. It also supports extradition processes.

94. The government also established the National Force for Inter-institutional Security. It agglomerates several State entities — including the armed forces, the national police, the Public Prosecutor's Office and the judiciary — to coordinate actions aimed at strengthening criminal investigations and prosecution of high-impact crimes. The National Force is currently headed by a military commander. While the Government informed the Rapporteur that the role of the Commander was merely to coordinate the actions of the agencies involved in the National Force, many actors voiced concern that it blurred the separation of powers among the different branches of Government involved in criminal investigations, and more particularly put at risk the independence of the judiciary and of prosecutors involved in these cases.

95. In parallel to those measures, the armed forces implemented the "Guardians of the Nation" programme aimed at providing civic, patriotic and religious education to Honduran children and adolescents to reduce the risk that they might become involved in organized crime or gang activity. The armed forces leads the programme and implements it with the assistance of other actors, such as churches, doctors and psychologists. While it may serve a positive role and offer alternatives, there is also a risk that such a programme could militarize society and worsen the cycle of violence.

D. Reforms to improve criminal investigations and judicial proceedings

96. The Government introduced a process of reform of the Public Prosecutor's Office aimed at modernizing and professionalizing criminal investigations. The Technical Agency of Criminal Investigation, which investigates high-impact crimes, was established in 2015 within the Public Prosecutor's Office to professionalize criminal investigation services, provide specialized training to staff and modernize the office's forensic services and technologies. Although this was a necessary and important reform, it has not been matched with sufficient budget allocation for the performance of its functions.

[74] See *World Report 2016*, p. 292.

97. The Office of the Special Prosecutor for Crimes against Life was established in 2013 to strengthen murder investigations. It is divided into seven sections that absorbed all pre-existing special units involved in investigating deaths, including those that involve human rights, children, women, journalists and common crime. Many critics voiced concern that the reform would dilute the human rights focus in homicide cases.[75]

98. Within the police, and in the context of its cleansing, the much-discredited National Directorate of Criminal Investigation was replaced by the Directorate of Police Investigations, which is expected to have over 1,000 agents and modern criminal investigation technologies.

99. In the judicial system, a 2011 decree established the creation of courts of national jurisdiction for a series of high-impact crimes, including murder, kidnapping and drug trafficking. The aim of that measure was to prevent local judges — who are more prone to intimidation and infiltration by criminal groups — from working on such cases, thus protecting the judges and improving the effectiveness of judicial proceedings.

E. Protection of human rights defenders, journalists, social communicators and justice operators

100. In April 2015, the National Congress adopted the Law on the Protection of Human Rights Defenders, Journalists, Media Workers and Justice Operators to respond to the high levels of violence they endured. The Law established a national protection system aimed at ensuring multisectoral coordination for its enforcement. It provided for the creation of the advisory National Council for the Protection of Human Rights Defenders and a General Directorate, which was given an executive role and mandate to process protection requests from victims, provisional and precautionary measures from the Inter-American System for the protection of human rights, as well as security measures adopted by national courts. It also established a technical committee to conduct risk analyses and adjudicate on protection requests submitted to the General Directorate. In addition, it granted powers to several State institutions to provide protection measures to rights-defenders at risk. In total, 10 million lempiras ($440,140) was allocated to the mechanism.[76] The National Council assesses particular cases of persons at risk. In 2016, it approved a protocol for the transfer of precautionary and provisional measures of the Inter-American System, comprising a series of operating manuals and a methodology for analysing risk. A regulation of the Law was approved in August 2016 by Executive Agreement No. 59-2016.

101. The adoption of the Law and the establishment of the protection mechanism are very much welcomed but must be accompanied by the necessary resources and political will needed for their effective implementation.

VIII. Prisons

102. Very poor conditions, including overcrowding, inadequate nutrition and poor sanitation, are widespread in Honduran prisons, as was witnessed by the Rapporteur during his visit to the National Penitentiary and the detention centre of the Second Tactical Infantry Battalion, both in Tegucigalpa. Corruption among prison officials is reported to be rife. A main concern with respect to the right to life is the effective relinquishment to inmates of authority and discipline, which has led to abuses, extortion and intra-prison violence and killings. Under inmate control, prisons are run by "coordinators" who direct activities essential to the lives of most of the prison population without control or criteria decided by the prison administration. Inmates are placed in a position of subordination and vulnerability. Coordinators are known to have beaten, removed from cells and punished

[75] See www.pen-international.org/newsitems/in-post-coup-honduras-violence-against-journalists-and-impunity-escalate-freedom-of-expression-and-cultural-rights-undermined/?print=print, and www.proceso.hn/component/k2/item/15922.html.

[76] See *Situation of Human Rights in Honduras*, pp. 146-147.

prisoners with the acquiescence of prison authorities. Inmates have described situations of internal shootings among members of opposing gangs and grenade explosions that resulted in the death of several inmates, which were facilitated by the tolerated stock of all types of weaponry within prison walls.

103. Faced with this critical situation, the authorities assigned military officers to manage most of the countries prisons, in breach of articles 39 and 60 of the Law on the National Penitentiary System. In addition, they established detention centres in three military battalions where they have transferred reportedly dangerous inmates, such as gang leaders. The militarization of the country's penitentiary service has brought up numerous concerns, as military training is not fit for purpose and could lead to an array of human rights violations.

104. The national preventive mechanism plays an essential role in this context and needs to be strengthened.

IX. Engagement with the regional and international human rights protection system

105. Honduras has a chequered relationship with the Inter-American System for the protection of human rights. The Special Rapporteur is particularly concerned about the lack of effective implementation of precautionary measures of the Inter-American Commission on Human Rights and urges the Government to step up its efforts to ensure their immediate and full application. The work of the Commission is of great importance and has a great impact in Honduras. Its continued ability to engage in the country is paramount.

106. The Special Rapporteur welcomes the establishment in 2015 of a country office for Honduras of OHCHR.

X. Conclusions and recommendations

A. Concluding remarks

107. **A few years ago, Honduras had the highest murder rate in the world. Since then, a number of significant steps have been taken to reduce the levels of violence, which remain alarmingly high but have started to move in the right direction. The most difficult but important part still lies ahead: to consolidate the gains and bring the violence down further.**

108. **The Special Rapporteur met with many officials who were confronting the problems head-on and were committed to changing the situation. Likewise, many parts of civil society were vibrant and engaged.**

109. **The problem of violence in the country has two parallel dimensions: first, the high number of people who are killed; and the low number of perpetrators who are held accountable. Regional patterns of drug smuggling and grinding poverty and inequality make it hard to break out of the cycle of violence, but the gains that have been made show this is not insurmountable. Impunity is the hallmark and to a large extent the cause of the ongoing violence. While impunity is the result of engrained corruption, extortion and weak institutions, much can and should be done to remedy the situation.**

110. **Positive steps have been taken. Law enforcement agencies have increased their capacity and gang leaders have been jailed or extradited from the country. The police force is undergoing a far-reaching restructuring and strengthening process, which is much-needed to reverse the current militarization of law enforcement. A law has been passed to better protect human rights defenders, journalists and others, and consideration is being given to change the law to ensure better gun control.**

111. In an interview, one family member of a victim said "we have lost our culture of life". Beyond legal reform, it is that culture that must be restored. The Special Rapporteur has also met with people who are restoring the normality of life through open-air concerts, sport and opportunities for young people. These are all important initiatives, and more is needed. The crucial and most difficult part of the road back to a culture that cherishes life lies ahead. Some additional legal changes are required, but it is important not simply to wait for them to come about. The challenge, in addition to taking other steps to restore the culture of life, is the consistent implementation of the current laws — without fear or favour, and as a matter of urgency.

112. Civil society is an active part of the quest to improve the situation, as seen for example in the giant demonstrations against corruption that were managed with restraint. At the same time, one can feel in Honduras a sense of resignation that the status quo is unlikely to change. The current downward trajectory in the incidence of violence should help to counter that approach and demonstrate that change is possible.

B. Recommendations addressed to the Government

113. The Special Rapporteur recommends that the Government develop a comprehensive strategy to ensure the effective protection of the right to life. The process should be driven by cross-sectoral coordination or, if the necessary capacity and inclination can be found therein, by the National Human Rights Commission.

114. With respect to legislation, the Special Rapporteur recommends that the Government:

(a) Ensure that the provisions on the use of force by all sectors of law enforcement, including the police, military police and penitentiary system, are brought into conformity with international standards;

(b) Also ensure that the reform of the Organic Law of the National Police complies fully with international standards governing the use of force, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the Code of Conduct for Law Enforcement Officials;

(c) Further ensure that the reform of the Law on the Control of Firearms, Ammunition, Explosives and other Similar Items introduces strict regulations on the type and number of weapons permissible, and tight registration requirements for the purchase of guns, in order to protect all individuals from the threat of gun violence.

115. With respect to law enforcement, the Special Rapporteur recommends that the Government:

(a) Develop clear criteria for the police certification process;

(b) Guarantee clearly defined rules of engagement for the military police and the cessation of its functions as soon as the emergency situation has passed;

(c) Ensure that the National Force for Inter-institutional Security is headed by a civilian, and guarantee the independent performance of duties of judges and prosecutors who are part of that Force.

116. With respect to government officials and institutions, the Special Rapporteur recommends that the Government:

(a) Strengthen the independence of the National Human Rights Commission in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and ensure that the nomination and selection process is fair and transparent;

(b) Ensure that the National Human Rights Commission develops more effective and creative approaches to its work on right-to-life issues, for example, through the provision of protective measures;

(c) Continue and strengthen the role of the national preventive mechanism, for example, by ensuring it receives adequate support and resources and can function without interference;

(d) Ensure the effective implementation of the system to monitor the implementation of recommendations on human rights.

117. With respect to the protection of affected groups, the Special Rapporteur recommends that the Government:

(a) Ensure as a matter of priority that the policy framework for the implementation of the Law for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators is completed and implemented; also ensure that the national protection system is adequately staffed and funded and that clear protocols are put in place to evaluate its performance and improve its response to situations of risk; and raise awareness about the existence of the mechanism, especially at the local level;

(b) Instruct the relevant entities, for example, the national protection system, to respond promptly and effectively to the precautionary measures granted by the Inter-American Commission on Human Rights;

(c) Take appropriate measures to protect the right to life of children, particularly during protests, arrests and raids, and establish regulations for the armed forces, police and judiciary on how to ensure the rights of children during the investigation of homicides;

(d) Train the police and judicial authorities on gender-identity and sexual-orientation awareness; ensure protective and precautionary measures for lesbian, gay, bisexual and transgender persons; and encourage societal tolerance;

(e) Create a safe corridor for migrants in transit, including better protection while in transit, strengthen cooperation between State bodies and community organizations that provide humanitarian assistance to migrants, provide adequate redress to victims of violence committed in the country and also provide adequate consular services abroad;

(f) Strengthen cross-border cooperation with countries in the region, with a view to reducing the incidence of trafficking in persons;

(g) Coordinate with countries in the region to establish shared databases on fingerprints, DNA, genetics and missing persons;

(h) Ensure full family and community reintegration of returning migrants and design strategies that address the structural factors leading to the forced migration of persons.

118. With respect to accountability for human rights violations, the Special Rapporteur recommends that the Government:

(a) Ensure the full, prompt, effective, impartial and diligent investigation of homicides perpetrated against human rights defenders, justice operators, indigenous people, journalists, land rights defenders, women migrants, children, inmates and lesbian, gay, bisexual and transgender persons; and also ensure the effective prosecution and conviction of the perpetrators and masterminds of those homicides;

(b) Instruct prosecutors to complement individual investigations with searches for broader patterns or other common factors that could help in investigating crimes and in identifying the perpetrators and masterminds of the above-mentioned homicides;

(c) Ensure that sufficient funding to the Public Prosecutor's Office, in particular the Technical Agency of Criminal Investigation, to guarantee the continued

professionalization of its staff, procedures and laboratories with the aim of improving the effectiveness of criminal investigations;

(d) Provide training and support to strengthen the capacity of prosecutors and investigators;

(e) Conduct prompt and comprehensive autopsies in all homicide cases;

(f) Ensure that all criminal investigations are guided by the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016), and that forensic experts are adequately trained on the uses of the Manual;

(g) Also ensure that the investigation into and the prosecution and trial of homicides linked to organized crime, drug trafficking and gang activity fall within national jurisdiction, in order to allow federal authorities to attract cases where local authorities are not in a position or are unwilling to do so;

(h) Respect the right of victims and their families to be informed of the status of criminal investigations;

(i) Improve data collection and analysis of incidents of violent deaths and ensure the use of common, reliable and transparent recording methods. Such data should be disaggregated by sex, race, age, ethnicity, occupation or affiliation, geographic location and other relevant characteristics, in order to understand the magnitude, trends and patterns of the problem. Furthermore, it should collect reliable statistics on the number of homicides that lead to prosecution, the number of effective convictions and the number of cases involving security forces.

119. **With respect to prisons, the Special Rapporteur recommends that the Government:**

(a) Improve conditions for all detainees, in compliance with the Standard Minimum Rules for the Treatment of Prisoners and ensure the right to life of all inmates;

(b) Address the situation of overcrowding and poor conditions of the prison system;

(c) Ensure that prisons are under the control of penitentiary officers and descale the militarization of prisons with a view to achieving its full return to civil administration;

(d) Also ensure that prisons are not permeated by gangs, and should impede the access by inmates to arms, drugs and mobile telephones, which could be used to commit crimes and endanger the lives of others inside and outside prisons.

120. **With respect to private security companies, the Special Rapporteur recommends that the Government:**

(a) Establish a process of stricter control over private security providers, and that the registration and functioning of private security companies is tightly vetted, controlled and supervised. It should establish rules of engagement that govern the use of arms and force by private security agents;

(b) Ensure that private security personnel and firearm lists are kept fully up to date and are in full compliance with national laws.

C. Recommendations addressed to the international community

121. **The international community should ensure that Honduran migrants who indicate that their lives are at risk in their home country and request asylum abroad are granted immediate access to legal assistance or to organizations that could assist them in processing their request. In compliance with the principle of non-refoulement, receiving countries should refrain from deporting migrants whose lives are at risk without having properly and thoroughly assessed their cases and asylum applications.**

122. **Countries where Honduran migrants have been subjected to physical abuse should adopt immediate measures to protect the survivors, to guarantee that criminal investigations and prosecutions are undertaken without delay and to return the remains of the deceased. The families of the victims must be informed and cooperation should be established with the Government of Honduras.**

123. **The international community should provide sustainable financial assistance to the Inter-American Commission on Human Rights to allow it to continue to play its vital role in the entire region, including Honduras.**

United Nations A/HRC/35/23/Add.2

General Assembly

Distr.: General
1 June 2017

English only

Human Rights Council
Thirty-fifth session
6-23 June 2017
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*

Addendum

Observations on communications transmitted to Governments and replies received

* Reproduced as received.

GE.17-08887(E)
1708887

Please recycle

Contents

		Page
I.	Introduction	3
II.	Tabulation (A) of cases transmitted and replies received to communications sent during the reporting period	3
	A. Violations alleged	4
	B. Character of replies received	4
	C. Tabulation (A)	6
	D. Replies received to communications sent outside the reporting period	15
	E. Observations on Tabulation (A)	17
III.	Tabulation (B) of cases transmitted to States concerning alleged violations of death penalty safeguards	23
	A. Violations alleged	23
	B. Tabulation (B)	24
	C. Replies received to communications sent outside the reporting period	30
	D. Observations on Tabulation (B)	31

I. Introduction

1. The present report contains observations by the Special Rapporteur on extrajudicial, summary or arbitrary executions on communications sent between 1 March 2016 and 28 February 2017 and responses received from States and other actors between 1 May 2016 and 30 April 2017. The report, including its statistics and analysis, does not provide an overview of all violations to the right to life occurring in the reporting period, only of those addressed in the communications sent by the Special Rapporteur during that period.

2. During the period under review, the Special Rapporteur sent 98 communications to 45 States and one other actor. 92 communications were sent jointly with other mandates, while six communications were sent by this mandate alone. Of all communications sent, 63 were urgent appeals and 30 were allegation letters.

3. The Special Rapporteur received responses to 39 out of 98 communications sent within the reporting period. She thanks all Governments who have replied to communications for their cooperation. 59 of the communications are yet to be responded to. In this period, the Special Rapporteur also received replies to 11 previous communications, i.e. sent prior to the reporting period, for which she is grateful. This means that the overall timely response rate for communications sent by this mandate was approximately 40 per cent, six per cent lower compared to the previous reporting period. This rate is significantly lower than the system-wide reply rate for special procedures communications (55 per cent in 2016). Moreover, it should be noted that some of the responses included in this number are also purely procedural in nature.

4. In its resolution 26/12, the Human Rights Council urged States "[t]o cooperate with and assist the Special Rapporteur in the performance of his or her tasks, to supply all necessary information requested by him or her and to react appropriately and expeditiously to his or her urgent appeals, and those Governments that have not yet responded to communications transmitted to them by the Special Rapporteur to do so without further delay". Therefore, the Special Rapporteur reiterates her appeal to all Governments to respond to communications in a timely manner so as to cooperate with her mandate efficiently in accordance with Human Rights Council Resolution 26/12.

5. This report compiles in two tables the correspondence sent and received during the period under review: Tabulation (A) of cases transmitted and replies received to communications sent during the reporting period, and Tabulation (B) of cases transmitted to States concerning alleged violations of death penalty safeguards. At the end of each tabulation, the Special Rapporteur offers her observations on the communications sent and the replies received during the reporting period.

6. The full text of each communication sent and reply received during the reporting period can be found in the online communications database, available at: https://spcommreports.ohchr.org/Tmsearch/TMDocuments.

II. Tabulation (A) of cases transmitted and replies received to communications sent during the reporting period

7. In Tabulation (A) all communications have been grouped by country, with countries listed alphabetically according to their names in English. Each communication is referenced as urgent appeal (UA), allegation letter (AL), joint urgent appeal (JUA) or joint allegation letter (JAL). This is followed by the date of transmission of the communication, the case number and, when applicable, the reply by the Government or non-State actor.

A. Violations alleged

8. In Tabulation (A) on communications sent and replies received, the violations are classified into the following categories, using the short versions in parentheses:

(a) Non-respect of international standards on safeguards and restrictions relating to the imposition of capital punishment ("Death penalty safeguards");

(b) Death threats and fear of imminent extrajudicial executions by State officials, paramilitary groups, or groups cooperating with or tolerated by the Government, as well as unidentified persons who may be linked to the categories mentioned above, when the Government is failing to take appropriate protection measures ("Death threats");

(c) Deaths in custody owing to torture, neglect, or the use of force, or fear of death in custody due to life-threatening conditions of detention ("Deaths in custody");

(d) Deaths due to the use of force by law enforcement officials or persons acting in direct or indirect compliance with the State, when the use of force is inconsistent with the criteria of absolute necessity and proportionality ("Excessive force");

(e) Deaths due to attacks or killings by security forces of the State, or by paramilitary groups, death squads, or other private forces cooperating with or tolerated by the State ("Attacks or killings");

(f) Violations of the right to life during armed conflict, especially of the civilian population and other non-combatants, contrary to international humanitarian law ("Armed conflict");

(g) Expulsion, refoulement, or return of persons to a country or a place where their lives are in danger ("Expulsion");

(h) Lack of investigation or accountability, leading to impunity, lack of compensation or concerns for the rights of victims ("Impunity").

(i) Concerns about a legislative framework ("Legislation").

B. Character of replies received

9. The replies received have been classified according to the following six categories designed to assist the Human Rights Council in its task of evaluating the responses received to the communications sent within the reporting period and the effectiveness of the mandate:

(a) "No response" denotes the absence of a response to a communication sent within the reporting period;

(b) "Recent communication" denotes the absence of a response to a communication sent within the past 60 days[1];

(c) "Acknowledgement of receipt" refers to a reply acknowledging receipt that the communication was received and/or that it has been transmitted to the relevant State authorities;

[1] This concerns (Joint) Allegations Letters only.

(d) "Addresses some substantive issues" characterizes a reply that provided information on certain substantive issues raised in the communication;

(e) "Substantive response" denotes a reply that is responsive to the allegations and that substantively clarifies the alleged facts. It does not, however, imply that the action taken necessarily complies with international human rights law.

(f) "Translation awaited" indicates that a response has been received, but has not yet been translated by the relevant services of the United Nations.

C. Tabulation (A)

Country	*Type of communication**	*Date and case*	*Subjects concerned*	*Reply and type of reply*	*Violations alleged*
Afghanistan	JUA	03/05/2016 (AFG 1/2016)	Group of individuals (prisoners)	No response	Death penalty safeguards
Bahrain	JAL	15/08/2016 (BHR 6/2016)	1 male	Addresses some substantive issues 14/10/2016	Death penalty safeguards
	JUA	19/01/2017 (BHR 1/2017)	5 males	Addresses some substantive issues 21/02/2017	Death penalty safeguards
Bangladesh	JUA	08/04/2016 (BGD 1/2016)	1 male	Acknowledgement of receipt 15/04/2016	Death penalty safeguards
	JUA	28/04/2016 (BGD 2/2016)	Group of individuals (protesters)	Acknowledgement of receipt 02/05/2016	Excessive force; attacks or killings
	JAL	31/05/2016 (BGD 3/2016)	2 individuals (human rights defenders – LGBTI rights)	No response	Attacks or killings; death threats
	JUA	29/07/2016 (BGD 5/2016)	1 male	No response	Death penalty safeguards
	JAL	17/02/2017 (BGD 1/2017)	1 male (journalist/human rights defender)	Recent communication	Attacks or killings
Brazil	JAL	20/09/2016 (BRA 6/2016)	Group of individuals (human rights defenders, including land rights defenders, journalists and bloggers)	Addresses some substantive issues 21/02/2017	Attacks or killings; death threats

* Type of Communication: UA: Urgent Appeal; JUA: Joint Urgent Appeal; AL: Letter of Allegation; JAL: Joint Letter of Allegation.

Country	*Type of communication**	*Date and case*	*Subjects concerned*	*Reply and type of reply*	*Violations alleged*
	UA	10/02/2017 (BRA 2/2017)	Group of individuals	No response	Attacks or killings
Bolivia	JAL	16/02/2017 (BOL 1/2017)	Legislation	Recent communication	Legislation
Burundi	JUA	18/03/2016 (BDI 5/2016)	Group of individuals (human rights defenders)	No response	Death threats
	JUA	01/02/2017 (BDI 1/2017)	Group of individuals (human rights defenders)	No response	Attacks or killings ; death threats
Cambodia	JAL	12/07/2016 (KHM 4/2016)	1 male (human rights defender/ political activist)	Substantive response 25/08/2016	Attacks or killings
Cameroon	JUA	10/02/2017 (CMR 3/2017)	1 male (human rights defender)	No response	Excessive force
Colombia	JUA	11/03/2016 (COL 2/2016)	Group of individuals	Substantive response 18/01/2017	Attacks or killings; death threats; impunity
	JUA	15/04/2016 (COL 4/2016)	2 individuals (human rights defenders)	Substantive response 26/05/2016	Attacks or killings; death threats
	JUA	02/05/2016 (COL 5/2016)	Group of individuals (human rights defenders)	Addresses some substantive issues 09/11/2016	Death threats
	JAL	04/07/2016 (COL 6/2016)	Group of individuals (indigenous community)	Acknowledgement of receipt 29/08/2016 Substantive response 12/10/2016	Excessive force; attacks or killings
	JUA	27/10/2016	5 individuals (indigenous	Addresses some substantive	Attacks or killings

Country	Type of communication*	Date and case (COL 7/2016)	Subjects concerned community)	Reply and type of reply issues 02/12/2016	Violations alleged
Cuba	JUA	20/04/2016 (CUB 1/2016)	1 female (political activist)	Substantive response 22/06/2016	Death threats
Democratic Republic of the Congo	JAL	19/05/2016 (COD 2/2016)	1 male (human rights defender)	No response	Attacks or killings
	JUA	22/07/2016 (COD 6/2016)	1 female	No response	Attacks or killings; impunity
	JUA	22/09/2016 (COD 7/2016)	Group of individuals (protesters)	No response	Excessive force ; attacks or killings
	JUA	21/12/2016 (COD 10/2016)	Group of individuals (minority)	No response	Attacks or killings; impunity
Egypt	JUA	24/02/2017 (EGY 2/2017)	12 males	No response	Death penalty safeguards; deaths in custody
Ethiopia	JUA	10/05/2016 (ETH 1/2016)	Group of individuals (abducted children)	No response	Attacks or killings
	JUA	02/09/2016 (ETH 2/2016)	Group of individuals (protesters)	No response	Excessive force; attacks or killings
	JUA	07/10/2016 (ETH 5/2016)	Group of individuals (protesters)	No response	Excessive force; attacks or killings
	JAL	26/10/2016 (ETH 4/2016)	Group of individuals (prisoners)	No response	Attacks or killings; deaths in custody
	JUA	29/12/2016 (ETH 7/2016)	Group of individuals (abducted children)	No response	Attacks or killings

Country	Type of communication*	Date and case	Subjects concerned	Reply and date of reply	Violations alleged
France	JAL	17/02/2017 (FRA 1/2017)	3 males (people of African descent)	Substantive response 19/04/2017	Excessive force
Gabon	JAL	22/09/2016 (GAB 1/2016)	Group of individuals (protesters, human rights defenders)	Addresses some substantive issues 05/10/2016 Substantive response 18/11/2016	Excessive force; attacks or killings
Gambia	JAL	18/05/2016 (GMB 1/2016)	1 male (protester)	No response	Attacks or killings, Excessive force; deaths in custody, death threats
Guatemala	JAL	08/02/2017 (GTM 7/2016)	Group of individuals (human rights defenders)	Addresses some substantive issues 01/03/2017	Attacks or killings; death threats
Haiti	JAL	26/10/2016 (HTI 3/2016)	Group of individuals (1 child)	No response	Death threats
	JUA	19/01/2017 (HTI 2/2017)	1 male (human rights defender)	No response	Death threats
Honduras	JUA	08/03/2016 (HND 2/2016)	1 male and 1 female (human rights defenders-environment)	Addresses some substantive issues 14/03/2016 Addresses some substantive response 01/04/2016	Attacks or killings; death threats
	JUA	18/03/2016 (HND 3/2016)	1 male and a group of individuals (human rights defender-environment)	Addresses some substantive issues 01/04/2016	Attacks or killings; death threats
	JUA	03/11/2016	4 individuals and two groups of individuals (human rights defenders, including land rights	No response	Attacks or killings; death threats; excessive force

Country	Type of communication*	Date sent (DMD 9/2016)	Subjects concerned and indigenous rights defenders	Reply received and type of reply	Concerns alleged
India	JAL	28/07/2016 (IND 9/2016)	Group of individuals (protesters)	Substantive response 27/09/2016	Excessive force, attacks or killings
Indonesia	JAL	24/03/2016 (IDN 1/2016)	Group of individuals	No response	Excessive force, attacks or killings
	JUA	13/05/2016 (IDN 5/2016)	Group of individuals (between 10 to 15 prisoners)	No response	Death penalty safeguards
	RE	21/06/2016 (IDN 6/2016)	Legislation	No response	Legislation
	JUA	27/07/2016 (IDN 7/2016)	Group of individuals (15 prisoners)	No response	Death penalty safeguards
Iran, Islamic Republic of	JUA	08/04/2016 (IRN 6/2016)	1 male	No response	Death penalty safeguards
	JUA	06/05/2016 (IRN 11/2016)	1 male	Addresses some substantive issues 04/01/2017	Death penalty safeguards
	JUA	13/05/2016 (IRN 13/2016)	1 male	Addresses some substantive issues 26/10/2016	Death penalty safeguards
	JUA	01/06/2016 (IRN 18/2016)	1 male	Addresses some substantive issues 17/11/2016	Death penalty safeguards
	JUA	05/08/2016 (IRN 22/2016)	1 male	No response	Death penalty safeguards

Country	Type of communication*	Date and case	Subjects concerned	Reply and type of reply	Violations alleged
	JUA	12/10/2016 (IRN 27/2016)	1 female	Addresses some substantive issues 17/11/2016	Death penalty; safeguards
	JUA	28/12/2016 (IRN 33/2016)	3 males	Addresses some substantive issues 31/01/2017	Death penalty; safeguards
	JUA	16/01/2017 (IRN 2/2017)	1 male	No response	Death penalty; safeguards
	JUA	31/01/2017 (IRN 5/2017)	1 male	Addresses some substantive issues 07/03/2017	Death penalty; safeguards
Iraq	JAL	21/12/2016 (IRQ 2/2016)	Group of individuals	No response	Armed conflicts
Israel	JAL	30/03/2016 (ISR 3/2016)	2 males (human rights defender)	No response	Excessive force; attacks or killings; death threats
	JUA	15/04/2016 (ISR 6/2016)	Group of individuals (human rights defenders)	No response	Death threats
	JUA	18/07/2016 (ISR 7/2016)	2 males (minors)	No response	Excessive force; death threats
Kenya	JUA	26/05/2016 (KEN 3/2016)	Group of individuals (protesters, human rights defenders, journalists and political activists)	No response	Excessive force; attacks or killings
	JAL	26/07/2016 (KEN 4/2016)	3 males (including a human rights lawyer and human rights defender)	No response	Attacks or killings; Excessive force
Lesotho	JAL	29/07/2016 (LSO 2/2016)	1 male (journalist)	Substantive response 22/09/2016	Attacks or killings

Country	*Type of communication**	*Date and case*	*Subjects concerned*	*Reply and type of reply*	*Violations alleged*
Malaysia	JUA	24/03/2016 (MYS 3/2016)	3 males	No response	Death penalty safeguards
	UA	23/02/2017 (MYS 1/2017)	2 males	Recent communication	Death penalty safeguards
Maldives	JUA	30/06/2016 (MDV 2/2016)	1 male	No response	Death penalty safeguards
Mauritania	JUA	28/11/2016 (MRT 3/2016)	1 male (blogger)	No response	Death penalty safeguards
Mexico	JUA	25/07/2016 (MEX 7/2016)	1 male, 1 female and a group of individuals (human rights defenders)	Substantive response 14/10/2016	Attacks or killings
	JAL	15/08/2016 (MEX 6/2016)	Group of individuals (protesters and journalists)	Addresses some substantive issues 06/01/2017	Excessive force; attacks or killings
Mozambique	JAL	17/03/2016 (MOZ 1/2016)	2 males (political activist and human rights defender)	No response	Attacks or killings
	JAL	05/08/2016 (MOZ 3/2016)	Group of individuals(including children)	No response	Excessive force; attacks or killings
	JAL	25/08/2016 (MOZ 2/2016)	Group of individuals (human rights defenders and political activists)	Acknowledgement of receipt 29/08/2016	Attacks or killings; death threats
Myanmar	JUA	05/10/2016 (MMR 3/2016)	3 males	Addresses some substantive issues 22/12/2016	Excessive force; attacks or killings
	JUA	21/10/2016 (MMR 4/2016)	Group of individuals (minorities)	Substantive response 20/01/2017	Excessive force ; attacks or killings
Other actors	JAL	31/05/2016	1 male (human rights defender-	No response	Attacks or killings

Country	*Type of communication**	*Date and case*	*Subjects concerned*	*Reply and type of reply*	*Violations alleged*
		(OTH 17/2016)	environment)		
Pakistan	JUA	16/03/2016 (PAK 6/2016)	1 female (human rights defender-LGBT)	No response	Attacks or killings; death threats; impunity
	JUA	26/09/2016 (PAK 9/2016)	1 male	No response	Death penalty safeguards
	AL	30/11/2016 (PAK 10/2016)	Legislation	No response	Legislation
Philippines	JAL	24/05/2016 (PHL 1/2016)	Group of individuals (indigenous community; land rights defenders; protesters)	No response	Excessive force; attacks or killings
	JUA	17/08/2016 (PHL 2/2016)	Group of individuals	No response	Excessive force; attacks or killings
	UA	21/12/2016 (PHL 4/2016)	Legislation	No response	Legislation
	AL	03/02/2017 (PHL 1/2017)	6 individuals	Acknowledgement of receipt 10/02/2017	Excessive force; attacks or killings
	AL	28/02/2017 (PHL 3/2017)	9 individuals	Recent communication	Excessive force; attacks or killings
Saudi Arabia	JUA	22/03/2016 (SAU 2/2016)	3 males	Acknowledgement of receipt 28/07/2016	Death penalty safeguards
	JAL	01/09/2016 (SAU 5/2016)	6 males	Substantive response 17/01/2017	Death penalty safeguards
	JUA	21/11/2016 (SAU 7/2016)	1 male	Substantive response 17/01/2017	Death penalty safeguards

Country	Type of communication*	Date and case	Subject(s) concerned	Reply and type of reply	Violations alleged
Singapore	JUA	18/05/2016 (SGP 3/2016)	1 male	Substantive response 27/06/2016	Death penalty safeguards
	JUA	17/11/2016 (SGP 6/2016)	1 male	Addresses some substantive issues 25/01/2017	Death penalty safeguards
South Africa	JAL	31/05/2016 (ZAF 1/2016)	1 male (human rights defender-environment)	No response	Attacks or killings
	JUA	28/11/2016 (ZAF 2/2016)	Legislation, Group of individuals	No response	Legislation, death in custody
South Sudan	JUA	10/05/2016 (SSD 1/2016)	Group of individuals (minority)	No response	Attacks or killings
Sudan	JUA	03/05/2016 (SDN 3/2016)	Group of individuals (prisoners)	No response	Death penalty safeguards
	JUA	25/08/2016 (SDN 6/2016)	4 males and 2 females (human rights defenders)	No response	Death penalty safeguards
Thailand	JUA	13/06/2016 (THA 2/2016)	3 males, 3 females and a group of individuals (human rights defenders, including environmental and land rights defenders)	No response	Attacks or killings; death threats
Uganda	JAL	29/06/2016 (UGA 5/2016)	6 individuals(including human rights defenders)	Acknowledgement of receipt 14/07/2016	Attacks or killings; death threats, impunity
USA	JUA	28/10/2016 (USA 11/2016)	1 male	Substantive response 13/12/2016	Death penalty safeguards
	JUA	03/11/2016 (USA 13/2016)	1 male	No response	Death penalty safeguards

Country	*Type of communication**	*Date and case*	*Subjects concerned*	*Reply and type of reply*	*Violations alleged*
Venezuela	JUA	24/03/2016 (VEN 3/2016)	28 persons	Substantive response 04/07/2016	Attacks or killings
	JOL	14/06/2016 (VEN 7/2016)	Legislation	Substantive response 17/08/2016	Legislation
Zambia	JAL	09/03/2016 (ZMB 1/2016)	4 individuals (albinism)	No response	Attacks or killings

D. Replies received to communications sent outside the reporting period

Country	*Type of communication*	*Date*	*Subject(s) concerned*	*Reply*	*Violation(s) alleged*
Democratic Republic of the Congo	JAL	10/12/2015 (COD 5/2015)	Group of individuals (including human rights defenders and political activists)	Acknowledgement of receipt 02/02/2016 Substantive response 15/02/2016 Substantive response 02/03/2016	Attacks or killings, impunity
Guatemala	JAL	26/02/2016 (GTM 2/2016)	Group of individuals	Substantive response 24/05/2016	Death threats; Impunity
Iran	JUA	11/11/2015 (IRN 21/2015)	3 males	Addresses some substantive issues 04/05/2016	Death penalty safeguards

	JUA	20/01/2016 (IRN 3/2016)	1 female	Addresses some substantive issues 07/07/2016	Death penalty safeguards
Saudi Arabia	JUA	30/09/2015 (SAU 5/2015)	1 male	Substantive response 04/05/2016	Death penalty safeguards
Singapore	JUA	30/10/2015 (SGP 3/2015)	1 male	Substantive response 27/06/2016	Death penalty safeguards
Sudan	JUA	20/01/2016 (SDN 1/2016)	25 individuals	Substantive response 29/04/2016	Death penalty safeguards, Fair trial concerns
USA	AL	01/12/2015 (USA 20/2015)	Group of individuals	Substantive response 13/05/2016	Attacks or killings
Venezuela	JAL	24/02/2016 (VEN 2/2016)	1 male(human rights lawyer)	Substantive response 07/09/2016	Attacks or killings
Viet Nam	JUA	30/10/2015 (VNM 1/2015)	2 males	Substantive response 19/04/2017	Death penalty safeguards; death in custody; death threats
	JUA	25/11/2015 (VNM 2/2015)	1 male and 1 female(human rights lawyers)	Substantive response 19/04/2017	Attacks or killings; death threats

E. Observations on Tabulation (A)

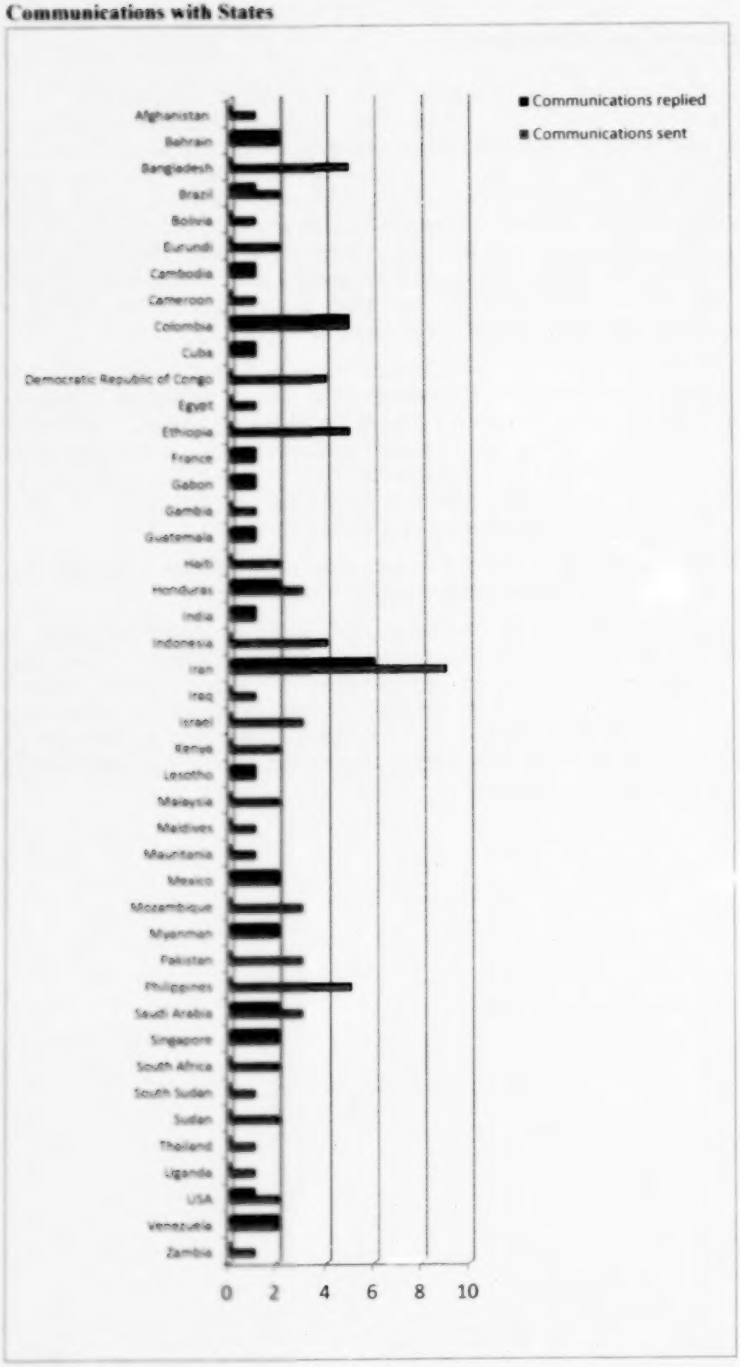
10. During the reporting period, many States have replied to one or more of the communications addressed to them (21 out of 45). The Special Rapporteur would like to thank all States who have responded substantively and in a timely manner to all or some of the communications sent (21). The assessment of individual cases in which the Special Rapporteur has intervened is an essential part of her work and she is grateful for the collaboration that she has received. The Special Rapporteur would like to thank particularly the Governments of Bahrain, Colombia, Cuba, France, Gabon, Guatemala, India, Lesotho Mexico, Myanmar, Singapore and Venezuela for having replied substantively (addressing all or some of the questions raised) and within the required deadline to all the communications addressed to them in the reporting period.

11. A handful of States did not submit a timely reply to any of the communications sent, or have submitted merely an acknowledgement of receipt, including: Afghanistan, Bangladesh, Cameroon, Democratic Republic of Congo, Egypt, Ethiopia, The Gambia, Haiti, Indonesia, Iraq, Israel, Kenya, Malaysia, Maldives, Mauritania, Mozambique, Pakistan, Philippines, South Africa, South Sudan, Sudan, Thailand, Uganda and Zambia. The responses from some of these States have arrived after the required deadline and for that reason fall outside of the reporting period of the present report.

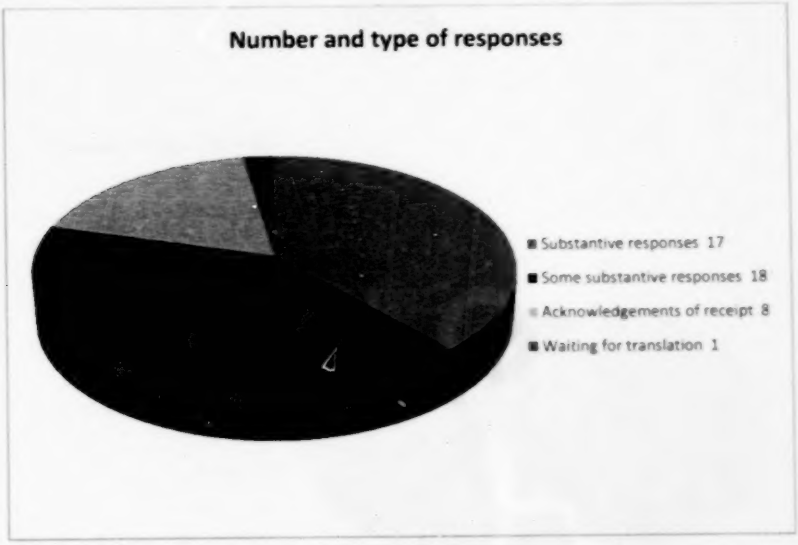
12. In all instances where no responses were received, the Special Rapporteur urges Governments to provide substantive responses as soon as possible.

13. To provide a global perspective on the communications with States during the reporting period, the table below reflects the number of communications sent to each State and the number of replies of a substantive nature received from them within the required deadline. Such replies comprise both substantive replies and replies that address some substantive issues. Acknowledgements of receipt are not considered as replies for the purpose of this table, as they do not provide an effective response to the questions raised in the cases transmitted to Governments.

Communications with States



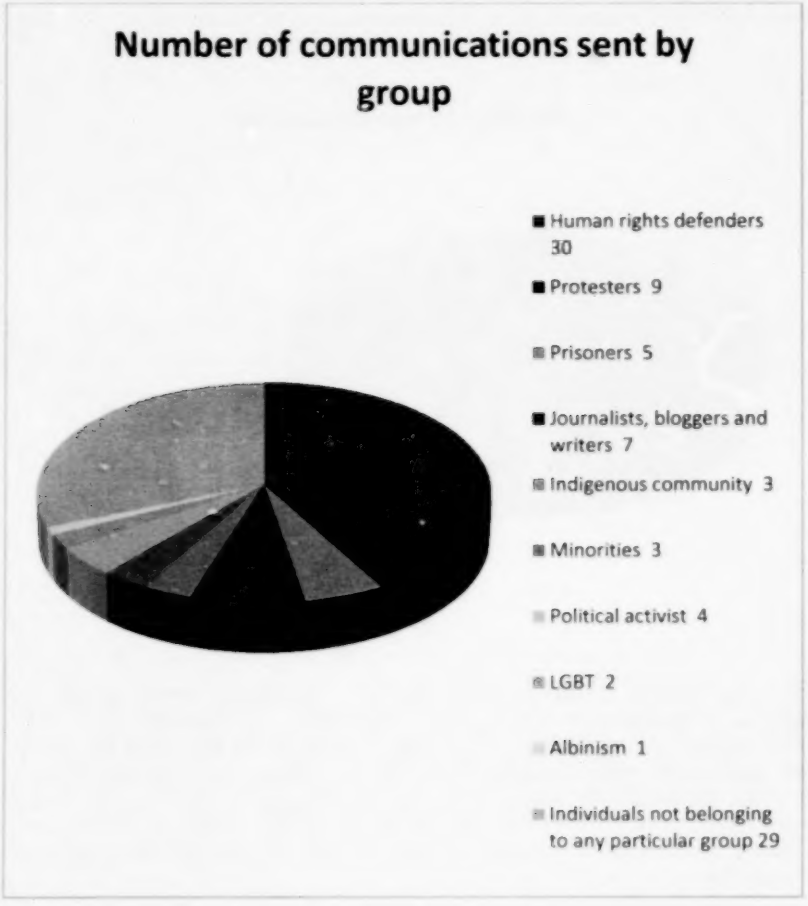
14. Of all communications sent to States, 17 received a substantive response, 18 received responses that addressed some substantive issues, eight received acknowledgements of receipt that were not followed by a substantive reply, and one is in translation. As mentioned above, 54 communications did not receive any type of response.


Number and type of responses
Substantive responses 17
Some substantive responses 18
Acknowledgements of receipt 8
Waiting for translation 1

15. The tabulation of communications sent during the reporting period indicates the groups of people addressed in the communications sent by the Special Rapporteur. The main groups of people addressed in the communications (by number of communications sent) were: human rights defenders (30), protesters (9), prisoners (5), journalists, bloggers or writers (7), indigenous community (3), persons belonging to minorities (3), political activists (4), lesbian, gay, bisexual and transgender (LGBT) people (2), persons with albinism (1). Additionally, 29 communications were sent concerning individuals who did not belong to any particular group.

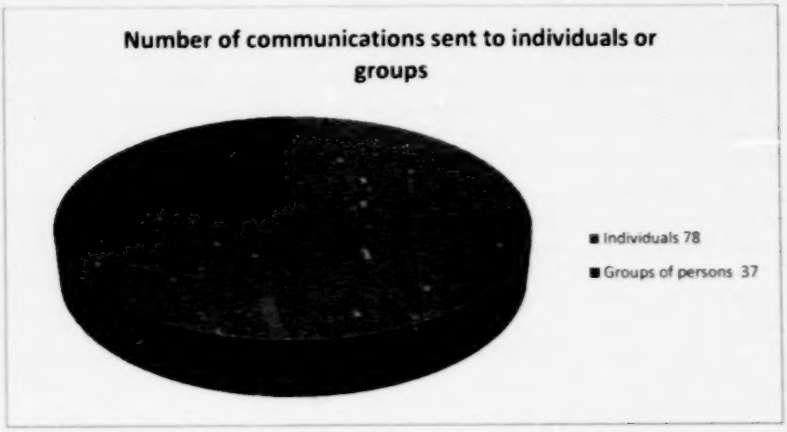
16. The Special Rapporteur is concerned that again in this reporting period human rights defenders feature as the group most frequently addressed in communications sent by the mandate. She recalls that States have the responsibility to ensure that human rights defenders are able to conduct their work without risks or threats to their life. States play a vital role in not only respecting and protecting the rights of human rights defenders but also in establishing preventive measures to avoid risk or harm, and in ensuring effective accountability. Moreover, States should consider the extent to which their own public response to the work of human rights defenders may be inciting violence against defenders, legitimizing a climate in which attacks can be perpetrated with impunity, or perceived as condoning such violence. As mentioned in the last reporting period, the level of

responsiveness of the State to threats against human rights defenders or their work can significantly determine the dangers they face because of their important work.[2]

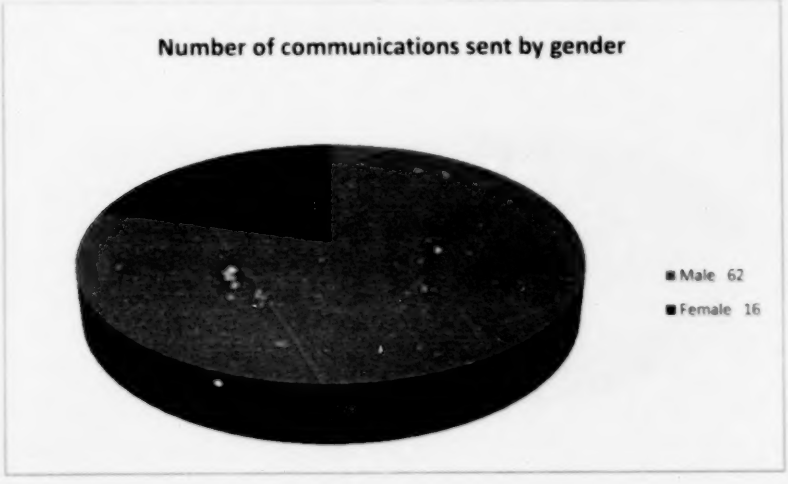


17. Overall, 78 persons were addressed individually in the communications sent in this period. This does not include the persons addressed as part of a group on which there was no information on the identity of individual victims. 37 groups of persons were the subject of communications in this period.

[2] A/HRC/32/39/Add.3, p.23.



18. As indicated in the table below, the communications concerning male victims (62) represented approximately 63.2% of the communications sent in the reporting period while the communications concerning female victims (16) represented approximately 16.3% of the communications sent in the same period. However, numerous communications sent during the reporting period addressed the situation of groups of persons on which there was no information regarding the sex or gender of the victim.

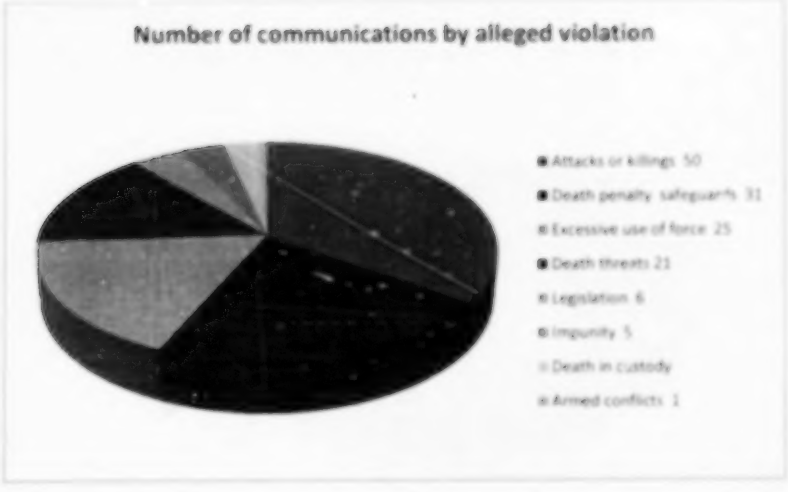


19. The main alleged violations covered in the communications sent during the reporting period were: attacks or killings (50); violation of death penalty safeguards (31), excessive use of force (25), death threats (21), concerns about legislative frameworks (6) , impunity for violations of the right to life (5), deaths in custody (4) and violations of the right to life in the context of armed conflict (1). Alleged attacks or killings feature prominently again this year in the number of communications sent, followed by alleged violations of the death penalty safeguards, excessive use of force and death threats.

20. States have an essential role to play in curbing levels of violence and reducing killings and attacks to life and personal security. Not only must they ensure that their agents refrain from endangering life when performing their duties, they should also protect from harm by non-State actors. This obligation includes taking all appropriate measures to prevent the deprivation of life by non-State actors, as well as to investigate, prosecute and punish non-State actors that have deprived others of their life.

21. Since its establishment, the mandate of the Special Rapporteur on extra-judicial, summary or arbitrary executions has focused on a variety of situations that have involved or included killings by non-State actors and has offered valuable recommendations to address or prevent them. These situations have been brought to fore in reports or observations covering issues such as, but not limited to, inter-communal killings, killings by vigilante, militias and mob justice, killings by bandits, killings by corporations, social cleansing killings, honor killings, witchcraft killings, "femicide," gender-based violence by vigilante groups, killings on the basis of gender or sexual identity, as well as killings or attacks in the context of armed conflicts.

22. The Special Rapporteur plans to build on the work of her predecessors and, where necessary, expand on this to reflect the changing nature of violations of the right to life. In so doing, she will seek to survey and identify good practices with regard to States' responsibilities to protect against killings by non-State actors, as well as further explore the direct human rights responsibilities of non-State actors, including, but not limited to, situations of armed conflict.



III. Tabulation (B) of cases transmitted to States concerning alleged violations of death penalty safeguards

23. Because of the urgency of the cases brought to her attention, the Special Rapporteur sends many communications concerning the unlawful application of the death penalty.

24. In its resolution 17/5, the Human Rights Council requested the Special Rapporteur in carrying out her mandate "[t]o continue to monitor the implementation of existing international standards on safeguards and restrictions relating to the imposition of capital punishment, bearing in mind the comments made by the Human Rights Committee in its interpretation of article 6 of the International Covenant on Civil and Political Rights, as well as the Second Optional Protocol thereto". In this respect, the Special Rapporteur has included the following table on the status of individuals who were the subject of concern with regard to the application of the death penalty in the present report. She urges all concerned States to provide updated information on the status of the subjects of these urgent appeals.

25. Tabulation (B) provides details on the 31 cases transmitted to Governments with regards to alleged violations of death penalty safeguards, including identity of the individuals concerned, the charges brought against them, the alleged violations of death penalty safeguards, and an update on the current situation of these individuals (i.e. whether executions have taken place or not).

A. Violations alleged

26. In Tabulation (B) of cases transmitted to States concerning alleged violations of death penalty safeguards, the violations are classified into the following categories:

(a) Fair trial concerns.
(b) Not "most serious crimes".
(c) Extraction of confession under torture / duress
(d) Juvenile at time of offense.
(e) Execution of a person with intellectual or psychosocial disability.
(f) Mandatory imposition of the death penalty
(g) Imposition of the death penalty by Federal Government for facts that occurred in abolitionist state.
(h) Assistance of abolitionist State in the investigation of crimes that may result in the imposition of the death penalty in another State.

B. Tabulation (B)

Country	Date appeal sent	Date response received	Name of individual	Charge alleged	Violation alleged	Status on list as could be established
Afghanistan	03/05/2016		Mr. Anas Haqani Mr. Hafiz Abdul Rashid	Terrorism-related offences	Fair trial concerns	Remain at risk
Bahrain	15/08/2016	18/10/2016	Mr. Mohamad Ramadan	Terrorism-related offences	Fair trial concerns; extraction of confession under torture	Remains at risk
	19/01/2017	21/02/2017	Mr. Abbas al Samea Mr. Ali al Singace Mr. Hussein Moosa Mr. Sami Mushaima Mr. Mohamad Ramadan	Terrorism-related offences	Fair trial concerns; extraction of confession under torture; juvenile at time of offense	Mr. Abbas Al Samea , Mr. Ali al Singace and Mr. Sami Mushaima were executed on 15/01/2017. Mr. Hussein Moosa and Mr. Mohamad Ramadan remain at risk.
Bangladesh	08/08/2016	15/08/2016	Mr. Motiur Rahman Nizami	Murder and/or mass killings	Fair trial concerns	Mr. Motiur Rahman Nizami executed on 11/05/2016
	29/07/2016		Mr. Mir Quasem Ali	Crimes against humanity	Fair trial concerns	Mr. Mir Quasem Ali executed on 03/09/2016
Egypt	28/02/2017		Mr. Reda Mohamad Fahmy Abd al Moneim Mr. Ahmed Amin Ghazali Mr. Mahmoud al-Sharif Mahmoud Mr. Mohamed Fawzi Abd al-Gawad Mahmoud Mr. Ahmed Mostafa Ahmed	Terrorism-related offences	Fair trial concerns; extraction of confession under torture; juvenile at time of offense	Mr. Reda Mohamad Fahmy Abd al Moneim, Mr. Ahmed Amin Ghazali, Mr. Mahmoud al-Sharif Mahmoud, Mr. Mohamed Fawzi Abd al-Gawad Mahmoud, Mr. Ahmed Mostafa Ahmed Mohamed and Mr. Abdul Basir Abdul Rauf remain at risk.

Country	Date appeal sent	Date response received	Name of individual	Charge alleged	Violation alleged	Status as far as could be established
			Mohamed Mr. Abdul Basit Abdul Rauf			
Indonesia	13/05/2016		Mr. Agus Hadi Mr. Humphrey Jefferson Ejike Ilowuke Mr. Pujo Lestari (and between 7 and 12 other unnamed prisoners)	Drug offences	Fair trial concerns; not "most serious crimes"	Mr. Humphrey Jefferson Ejike Ilowuke executed on 29/07/2016. Mr. Agus Hadi and Mr. Pujo Lestari remain at risk.
	27/07/2016		Mr. Agus Hadi Mr. Eugenia Ape Mr. Freddy Budiman Mr. Frederich Luiter Mr. Gurdip Singh Mr. Humphrey Jefferson Ejike Ilowuke Ms. Merri Utami Mr. Michael Titus Igweh Mr. Obinna Nwajagu Mr. Okonkwo Nonso Kingsley Mr. Ozias Sibanda Mr. Pujo Lestari Mr. Seck Osmane Mr. Zulficar Ali **Mr. Suryanto**	Drug offences	Fair trial concerns; not "most serious crimes"; extraction of confession under torture;	Mr. Humphrey Jefferson Ejike Ilowuke, Mr. Freddy Budiman, Mr. Michael Titus Igweh, Mr. Seck Osmane executed on 29/07/2016. Mr. Agus Hadi, Mr. Frederich Luiter, Mr. Gurdip Singh, Ms. Merri Utami , Mr. Obinna Nwajagu , Mr. Okonkwo Nonso Kingsley, Mr. Ozias Sibanda, Mr. Pujo Lestari, Mr. Suryanto and Mr. Ozias Sibanda remain at risk.
Iran	08/04/2016		Mr. Rashid Kouhi	Drug offenses	Fair trial concerns; not "most serious crimes"	Mr. Rashid Kouhi executed on 09/04/2016.
	06/05/2016	04/01/2017	Identity withheld	Murder	Fair trial concerns; juvenile at time of	Remains at risk

Country	Date appeal sent	Date response received	Name of individual	Charges alleged	Violations alleged	Status as far as could be established
					offense	
	13/05/2016	26/10/2016	Identity withheld	Murder	Fair trial concerns; extraction of confession under torture; juvenile at time of offense	Remains at risk
	01/06/2016	17/11/2016	Mr. Mohammad Reza Haddadi	Murder	Fair trial concerns; juvenile at time of offense	Remains at risk
	05/08/2016		Mr. Barzan Nasrollah Zadeh	Enmity against god; murder	Fair trial concerns; juvenile at time of offense	Remains at risk
	12/10/2016	17/11/2016	Ms. Zeinab Sekaanvand Lokran	Murder	Fair trial concerns; extraction of confession under duress; juvenile at time of offense	Remains at risk
	28/12/2016	31/01/2017	Mr. Himan Ouraminejad Mr. Salar Shadizadi Mr. Vali Yousef Zehi	Murder; drug offenses	Fair trial concerns; juvenile at time of offense	Remain at risk
	16/01/2017		Identity withheld	Murder	Fair trial concerns: juvenile at time of offense	Remains at risk
	31/01/2017	07/03/2017	Mr. Hamid Ahmadi	Murder	Fair trial concerns; extraction of confession under torture; juvenile at time of offense	Remains at risk
Malaysia	24/03/2016		Mr. Gunasegar Pitchaymuthu	Murder	Mandatory death penalty	Mr. Gunasegar Pitchaymuthu

Country	Date appeal sent	Date response received	Name of individual	Charge alleged	Violation alleged	Status as far as could be established
			Mr. J Ramesh Jayakumar Mr. Sasivarnam Jayakumar			Mr. J Ramesh Jayakumar and Mr. Sasivarnam Jayakumar executed on 25/03/2016.
	23/02/2017		Mr. Suthar Batumalai Mr. B. Rames Batumalai	Murder	Fair trial concerns; mandatory death penalty	Mr. Suthar Batumalai and Mr. B. Rames Batumalai were executed on 15/03/2017
Maldives	30/06/2016		Mr. Hussain Humaam Ahmed	Murder	Fair trial concerns; extraction of confession under duress	Remains at risk
Mauritania	28/11/2016		Mr. Mohamed Cheikh Ould M'kheitir	Apostasy	Fair trial concerns; not "most serious crimes"	On the 31/01/2017, the Supreme Court decided to resend the case to the court of Nouhadibou for a new trial.
Pakistan	26/09/2016		Mr. Imdad Ali	Murder	Fair trial concerns; execution of a person with intellectual or psychological disabilities	Remains at risk
Saudi Arabia	22/03/2016	28/07/2016	Mr. Abdullah al-Zaher Mr. Ali Mohammed al-Nimr Mr. Dawoud al-Marhoon	Treason; terrorism-related offences	Fair trial concerns; extraction of confession under torture ; juvenile at time of offense	Remain at risk
	01/09/2016	17/01/2017	Mr. Ali Mohammed al-Nimr Mr. Mojtaba Nader Abdullah Suwaiket Mr. Munir Al Adam	Treason; apostasy, terrorism-related offences	Fair trial concerns; extraction of confession under torture ; juvenile at time of offense	Mr. Ali Mohammed al-Nimr, Mr. Mojtaba Nader Abdullah Suwaiket and Mr. Munir Al Adam remain at risk.

Country	Date appeal sent	Date response received	Name of individual	Charge alleged	Violation alleged	Status as far as could be established
			Mr. Sheikh Nimr al-Nimr			Sheikh Nimr al-Nimr executed on 02/01/2016.
	21/11/2016	17/01/2017	Mr. Mojtaba Nader Abdullah Suwaiket	Disobedience; attack on security forces	Fair trial concerns; extraction of confession under torture; juvenile at time of offense	Remains at risk
Singapore	18/05/2016	27/06/2016	Mr. Kho Jabing (foreign national)	Unintentional murder	Not "most serious crimes"	Mr. Kho Jabing executed on 20/05/2016
	17/11/2016	25/01/2016	Mr. Chijioke Stephen Obioha (foreign national)	Drug offenses	Not "most serious crimes"; mandatory death sentence	Mr. Chijioke Stephen Obioha executed on 18/11/2016
Sudan	03/05/2016		Identity withheld Identity withheld Identity withheld Identity withheld Identity withheld Identity withheld Identity withheld Identity withheld Mr. James Arol Annie Arole Identity withheld Identity withheld Mr. Joseph Malonge Ayaat Gig Identity withheld Identity withheld Identity withheld Identity withheld Identity withheld Identity withheld	Terrorism-related offences	Fair trial concerns; juvenile at time of offense; execution of a person with intellectual or psychological disabilities; Not "most serious crimes".	Remain at risk

Country	*Date appeal sent*	*Date response received*	*Name of individual*	*Charge alleged*	*Violation alleged*	*Status as far as could be established*
			Identity withheld			
			Identity withheld			
			Identity withheld			
			Identity withheld			
			Identity withheld			
			Identity withheld			
			Identity withheld			
	25/08/2016		Mr. Alhassan Kheiri Ms. Arwa Elrabie Ms. Imany Leyla Raye Mr. Khalafalla Mukhtar Mr. Midhat Hamadan Mr. Mustafa Adam	Terrorism-related offences	Fair trial concerns. Not "most serious crimes".	Mr. Alhassan Kheiri, Ms. Arwa Elrabie and Ms. Imany Leyla Raye had their charges dropped on 19/01/2017. Mr. Khalafalla Mukhtar, Mr. Midhat Hamadan and Mr. Mustafa Adam werereleased on 06/03/2017 after paying the fines imposed.
USA	28/10/2016	13/12/2016	Mr. Kevin Cooper	Murder	Fair trial concerns	Remains at risk
	03/11/2016		Mr. Thomas Arthur	Murder	Fair trial concerns	Executed on 25/05/2017

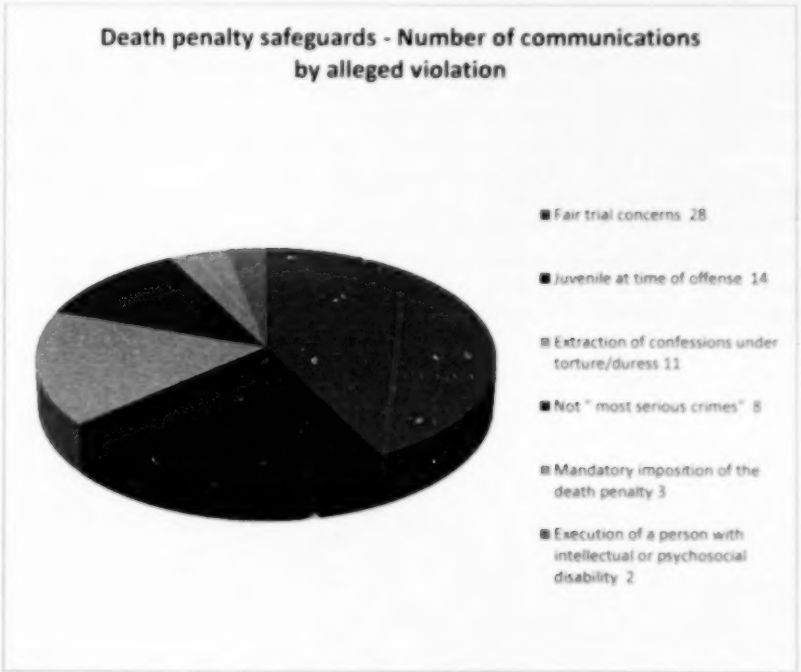
C. Replies received to communications sent outside the reporting period

Country	*Date appeal sent*	*Date response received*	*Name of individual*	*Charge alleged*	*Violation alleged*	*Status as far as could be established*
Iran	11/11/2015	04/05/2016	Mr. Shahram Ahmadi Mr. Milad Azimiand Mr. Mohammad Ali Zehi	Enmity against god; murder; drug offenses	Fair trial concerns; extraction of confession under torture ; juvenile at time of offense	Mr. Shahram Ahmadiexecuted on 02/08/2016. Mr. Milad Azimiand and Mr. Mohammad Ali Zehi remain at risk
	20/01/2016	07/07/2016	Ms. Fariba Khalegi	Adultery	Fair trial concerns; not "most serious crimes"	Remains at risk
Saudi Arabia	30/09/2015	04/05/2016	Mr. Husain Abu al Khair (foreign national)	Drug offenses	Fair trial concerns; not "most serious crimes"; extraction of confession under torture	Remains at risk
Singapore	30/10/2015	27/06/2016	Mr. Kho Jabing (foreign national)	Unintentional murder	Fair trial concerns; not most serious crimes;	Mr. Kho Jabing executed on 20/05/2016
Viet Nam	30/10/2015	19/04/2017	Mr. Le Van Manh	Murder	Fair trial concerns; extraction of confession under torture	Remains at risk

D. Observations on Tabulation (B)

27. It should be noted that the communications the Special Rapporteur sends to States on the subject of the death penalty are followed-up upon on the basis of a desk-based review. The Special Rapporteur expresses her continued gratitude to various civil society and advocacy organizations that facilitate this follow up. Establishing, at the very least, whether an individual has indeed been executed subsequent to a communication transmitted to the Government provides a helpful reference to whether the sending of these urgent appeals is effective in ensuring that States abide by international standards, prospectively, in their application of the death penalty. According to available information, executions were registered in 8 of the 14 countries addressed in Tabulation (B).

28. As indicated in the table below, the main alleged violations covered in the cases transmitted to Governments during the reporting period were: fair trial concerns in judicial procedures leading to the imposition of the death penalty (28); juvenile at time of offense (14), extraction of confessions under torture/duress (11); the imposition of the death penalty for crimes which do not meet the threshold of the "most serious crimes" (8); mandatory imposition of the death penalty (3), and execution of a person with intellectual or psychosocial disability (2).


Death penalty safeguards - Number of communications by alleged violation
Fair trial concerns 28
Juvenile at time of offense 14
Extraction of confessions under torture/duress 11
Not " most serious crimes" 8
Mandatory imposition of the death penalty 3
Execution of a person with intellectual or psychosocial disability 2

29. The Special Rapporteur continuous to be alarmed at the number of cases in which the death sentence was allegedly imposed following judicial procedures that fall short of international standards of fair trial and due process, a necessary requirement for the lawful imposition of this type of punishment. Twenty-eight out of the 31 communications

considered in Tabulation (B) address this issue. The Special Rapporteur wishes to remind States that have retained this form of punishment that the death penalty may only be carried out following a legal process that provides all possible safeguards to ensure a fair trial, and that only full respect of these guarantees distinguishes capital punishment as possibly permitted under international law from an arbitrary execution.

30. She is also concerned that in eight communications sent to States, the conviction of the defendant relied upon confessions extracted under torture. This manifestly undermines the credibility that the sentence was imposed during a fair trial. The extraction of confessions under torture and the acceptance of such confessions as evidence of guilt constitute flagrant violations of both the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

31. The Special Rapporteur is further concerned that again during this reporting period, several communications addressed the imposition of the death penalty for offences that do not meet the threshold of "most serious crime", in particular for drug offenses, terrorism related offences, adultery, unintentional murder, disobedience, treason, apostasy and "enmity against god". Amongst those, drug and terrorism related offences were the charges most frequently imposed. In this regard, the Special Rapporteur would like to restate that under international law, the death penalty may only be imposed for the "most serious crimes" which has been interpreted to mean "intentional killing". Drug related offences and many terrorism-related offences do not involve killing, much less intentional killing, and as such may not constitute the basis of any sentence to death.

32. The Special Rapporteur has also frequently sent communications regarding the planned execution of individuals who must be protected from the death penalty (16): most commonly those suffering from a psycho-social disability (2), or those who have been convicted for crimes committed as juveniles, in some cases those who are still juveniles (14 communications). In this latter case, the Special Rapporteur underlines that the burden of proof should rest on the prosecution to demonstrate that a defendant was an adult at the time of the commission of the alleged crime.

33. The Special Rapporteur would like to restate, as did her predecessors, that any death sentence undertaken in contravention of a Government's international obligations is tantamount to an arbitrary execution.